AUG 5 1986

Y4.F76/1:H88/40

U.S. HUMAN RIGHTS POLICY

MF 204

HEARINGS

BEFORE THE

SUBCOMMITTEE ON HUMAN RIGHTS
AND INTERNATIONAL ORGANIZATIONS

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

SECOND SESSION

FEBRUARY 19 AND 26, 1986

Printed for the use of the Committee on Foreign Affairs

ORIGINAL

U.S. GOVERNMENT PRINTING OFFICE
61-727 O WASHINGTON . 1986

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

DD

I

BEST COPY AVAILABLE

COMMITTEE ON FOREIGN AFFAIRS

DANTE B. FASCELL, Florida, *Chairman*

LEE H. HAMILTON, Indiana
GUS YATRON, Pennsylvania
STEPHEN J. SOLARZ, New York
DON BONKER, Washington
GERRY E. STUDDS, Massachusetts
DAN MICA, Florida
MICHAEL D. BARNES, Maryland
HOWARD WOLPE, Michigan
GEO. W. CROCKETT, Jr., Michigan
SAM GEJDENSON, Connecticut
MERVYN M. DYMALLY, California
TOM LANTOS, California
PETER H. KOSTMAYER, Pennsylvania
ROBERT G. TORRICELLI, New Jersey
LAWRENCE J. SMITH, Florida
HOWARD L. BERMAN, California
HARRY REID, Nevada
MEL LEVINE, California
EDWARD F. FEIGHAN, Ohio
TED WEISS, New York
GARY L. ACKERMAN, New York
BUDDY MacKAY, Florida
MORRIS K. UDALL, Arizona
ROBERT GARCIA, New York

WILLIAM S. BROOMFIELD, Michigan
BENJAMIN A. GILMAN, New York
ROBERT J. LAGOMARSINO, California
JIM LEACH, Iowa
TOBY ROTH, Wisconsin
OLYMPIA J. SNOWE, Maine
HENRY J. HYDE, Illinois
GERALD B.H. SOLOMON, New York
DOUG BEREUTER, Nebraska
MARK D. SILJANDER, Michigan
ED ZSCHAU, California
ROBERT K. DORNAN, California
CHRISTOPHER H. SMITH, New Jersey
CONNIE MACK, Florida
MICHAEL DeWINE, Ohio
DAN BURTON, Indiana
JOHN McCAIN, Arizona

JOHN J. BRADY, Jr., *Chief of Staff*
SHIRLEY DAWSON, *Staff Assistant*

SUBCOMMITTEE ON HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS

GUS YATRON, Pennsylvania, *Chairman*

GARY L. ACKERMAN, New York
DON BONKER, Washington
TOM LANTOS, California
EDWARD F. FEIGHAN, Ohio
GEO. W. CROCKETT, Jr., Michigan

GERALD B.H. SOLOMON, New York
CHRISTOPHER H. SMITH, New Jersey
MARK D. SILJANDER, Michigan
DAN BURTON, Indiana

MARK J. TAVLARIDES, *Subcommittee Staff Director*
DAVID LONIE, *Minority Staff Consultant*
BERNADETTE PAOLO, *Subcommittee Staff Consultant*
KERRY BOLOGNESE, *Subcommittee Staff Consultant*

BEST COPY AVAILABLE

CONTENTS

WITNESSES

	Page
Wednesday, February 19, 1986:	
Hon. Richard Schifter, Assistant Secretary of State for Human Rights and Humanitarian Affairs	3
Wednesday, February 26, 1986:	
Felice Gaer, executive director, International League for Human Rights	12
Diane Orentlicher, deputy director, Lawyers Committee for Human Rights	20
Holly Burkhalter, Washington representative, Helsinki Watch/Americas Watch/Asia Watch	22
Curt Goering, deputy director, Amnesty International, U.S.A.	32

MATERIAL SUBMITTED FOR THE RECORD

Statement by Amnesty International, U.S.A. entitled "U.S. Human Rights Policy"	39

APPENDIX

Statement by Leonard R. Sussman, executive director, Freedom House, entitled "U.S. Human Rights Policy After the Philippines"	61

BEST COPY AVAILABLE

U.S. HUMAN RIGHTS POLICY

WEDNESDAY, FEBRUARY 19, 1986

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON HUMAN RIGHTS AND
INTERNATIONAL ORGANIZATIONS,
Washington, DC.

The subcommittee met, at 1:37 p.m., in room 2200, Rayburn House Office Building, Hon. Gus Yatron (chairman of the subcommittee) presiding.

Mr. YATRON. The Subcommittee on Human Rights and International Organizations will come to order.

The subcommittee meets today to hear testimony from the administration, regarding U.S. human rights policy and to review the administration's recently released "Country Reports on Human Rights Practices for 1985." The subcommittee will also receive testimony from several nongovernmental human rights organizations on this same subject at a later date.

As required by sections 116(d) and 502B of the Foreign Assistance Act of 1961, the State Department Human Rights Reports represent one of the most comprehensive reviews of individual human rights practices of foreign governments.

Initially, these reports reviewed the practices of countries receiving foreign assistance but were later expanded to include all countries that are members of the United Nations. To the administration's credit, it has also detailed human rights violations committed by guerrilla movements. According to the introduction of the reports, "such violations are no less reprehensible if committed by violent opponents of the government than if committed by the government itself." Unfortunately, the report on Nicaragua makes little or no reference to Contra abuses. Whether it is violations committed by the FMLN [Farabundo Marti Liberation Front] in El Salvador, or the Contras in Nicaragua, it is absolutely essential to understand the nature and actions of the insurgencies that we oppose or support.

Overall, the Human Rights Reports should be used by the administration as a reference for developing a foreign policy which promotes human rights and democratic institutions. However, the administration seems to be using the facts selectively to justify some of its policies. When analyzing the records of our adversaries, such as Afghanistan, the administration cites reports by nongovernmental organizations as being "credible."

Yet, the administration contends that findings by the same organizations are not credible when it comes to friends of the United

BEST COPY AVAILABLE

States such as Guatemala. By using a methodology that varies in application, U.S. human rights policy is, many times, denied the credibility necessary to effectively promote U.S. interests. It is important to note, however, that these reports are, in many cases, surprisingly frank and objective, including the critiques of Vietnam, Cuba, the Soviet Union, and South Korea.

More importantly, U.S. policy in recent years has contributed to an improvement in human rights conditions and a return to democracy in several nations. These accomplishments were achieved largely as a result of congressionally mandated policies, which conditioned U.S. assistance on human rights and in some cases prohibited certain types of U.S. aid in countries with extremely poor human rights records.

Today we have the distinct honor of having as our administration witness the Honorable Richard Schifter, Assistant Secretary of State for Human Rights and Humanitarian Affairs. This is the first time Ambassador Schifter will be testifying before this subcommittee in his new capacity, but he has testified previously as the U.S. Representative to the U.N. Human Rights Commission, a position he still holds. Mr. Ambassador, this is probably the first time in memory that an administration official has served in two key positions at the same time.

Many of my colleagues have spoken very highly of you, and I look forward to working with you in a very bipartisan manner.

Before you begin, I would like to insert in the record at this time an opening statement from my distinguished colleague, Mr. Solomon, the ranking minority member of the subcommittee, who had to attend another meeting. He will try to return later. We will have his statement included in the record.

[The prepared statement of Hon. Gerald B.H. Solomon follows:]

PREPARED STATEMENT OF HON. GERALD B.H. SOLOMON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Let me join you in expressing the subcommittee's welcome to Assistant Secretary Schifter. It is a pleasure to have him here today at this first hearing in what I trust will be a long and productive relationship with the subcommittee. We certainly have the highest respect for his predecessor, Elliott Abrams, and I am sure that Mr. Schifter will carry on in the same tradition.

I have noted, Mr. Schifter, that your prepared testimony makes reference to the fact that no other country gives as high a priority to human rights considerations in the formulation of public policy than does the United States. That is only right because it is our country that first brought human rights to the attention of the world. The Declaration of Independence and the bill of rights have been the standards by which all forms of governmental conduct and protection for the individual have been measured for the last 200 years in countries throughout the world.

However much we, whether as members of Congress or as officials of government, may disagree over definitions of terms or the manner in which abstract principles can be given life in concrete situations, the overriding fact remains that the protection and encouragement of human rights are not partisan or political issues—they are American issues! And I hope that this hearing and all of the other efforts that the subcommittee will be involved in this year will help contribute to a broader public consensus on this very important concern.

Let me just conclude, Mr. Chairman, by apologizing for the fact that I am going to have to leave shortly for another hearing. The Asia Subcommittee is going to be receiving testimony concerning the election in the Philippines and related events there that are a great concern to all of us. And so I will have to leave this meeting in a few minutes.

BEST COPY AVAILABLE

Mr. YATRON. Mr. Ambassador, we welcome you. You may proceed with your statement, sir.

STATEMENT OF HON. RICHARD SCHIFTER, ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Mr. SCHIFTER. Thank you very much, Mr. Chairman. As a matter of fact, Mr. Chairman, if you and I work together, it will be unipartisan, but if Congressman Solomon joins us, then it will be bipartisan, indeed.

Mr. Chairman, if I may, I would like to read first my prepared opening statement, and then perhaps offer a few words of comment concerning our reports.

Mr. YATRON. Without objection.

Mr. SCHIFTER. As this is, indeed, my first appearance before this subcommittee, I would like to use the opportunity offered by your invitation to explain the thoughts with which I have approached the job of Assistant Secretary of State for Human Rights and Humanitarian Affairs.

To begin with, I am aware of the uniqueness of the position. As far as I know, there is no other country in the world in which responsibility for monitoring human rights has been vested in a position as high in the bureaucratic hierarchy as has been done in the United States. It was done under a mandate from the Congress and that mandate, in turn, reflects the deep interest of the people of the United States in the cause of human rights.

What the law requires is that the United States will make it its business to intercede in foreign countries if we believe that a government is dealing unjustly with its own people, in contravention of the principles laid down in the Universal Declaration of Human Rights. This mandate requires us to break with past diplomatic practice. What a government does, vis-a-vis its own citizens, has heretofore not been considered an appropriate subject for official communications between governments, except, possibly, for occasional appeals for clemency. It is not surprising, therefore, that it took a while for traditional diplomats to shift gears on this subject. Though it may have taken a while, and though I am sure that imperfections can be identified, I must say that I have been impressed to find that human rights concerns have, indeed, been effectively integrated into the conduct of American diplomacy.

Not only the State Department as an institution, but also most individual Foreign Service Officers that I have encountered, consider human rights issues a significant part of the total agenda of our relations with individual countries in which human rights violations are reported to occur.

Admittedly, human rights are not our only concern in bilateral relations, but they are a matter with which we deal. We now have human rights officers in a number of Embassies. In others, human rights is a distinct portfolio which is assigned to a particular Foreign Service officer as part of a number of duties. The annual reports which we submit to you can, from that point of view, be viewed as merely the tip of the iceberg. The State Department and our Embassies deal with human rights issues all year long.

BEST COPY AVAILABLE

That takes me to the question of how we deal with these issues. Every once in a while the question is posed whether the approach which has been characterized as "quiet diplomacy" serves only to veil inaction. Let me state most emphatically that it does not.

In choosing the tactics which we should adopt, we keep well in mind that the general public and the Congress wanted us to obtain results that will improve the life of victims or potential victims of human rights abuses. We do not just want to make grandiose statements that lead nowhere. Our efforts are, therefore, consistently directed at the achievement of results. We believe that in a good many situations it is best to engage in private conversations with foreign governments on human rights problems rather than going public, which sometimes might stiffen their opposition to our appeals for changes in policy. But where private communication fails, we are indeed prepared to discuss human rights problems in public.

I do want to emphasize that we are here sailing in uncharted waters. Not only are we ourselves novices in this effort, we also are pretty much alone. Other countries are prepared to speak out on human rights issues in international fora, but are inclined not to let them interfere with bilateral relations.

As we continue this relatively new undertaking in international diplomacy, an undertaking which so very much reflects the idealism of our country, it is important for us in the executive branch to work closely with the Congress. I am, therefore, pleased to be here today and would like to assure the subcommittee of our bureau's interest and commitment to work with you.

Thank you.

Mr. YATRON. Thank you very much, Secretary Schifter, for your statement, sir.

According to section 502B of the Foreign Assistance Act of 1961, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights. Despite this directive, the administration requested, and Congress approved, military aid for fiscal year 1986 for the Philippines, Guatemala, Korea, and Pakistan.

Mr. Secretary, how can security assistance to these countries—whose violations over a sustained period of time have been documented by nongovernmental organizations as well as the State Department's Country Reports—be given without violating section 502B?

Mr. SCHIFTER. Mr. Chairman, in reviewing with you the following, there is no question that violations of human rights do occur in these countries, and as you correctly point out, these are documented in our reports. We make no bones about that fact.

The question that we have to decide in the case of each individual country is when does the course of conduct rise to a level which then constitutes a consistent pattern of gross violations of internationally recognized human rights, which is the requirement of the law. What is obviously the case is that, after weighing all aspects of the matter, a decision is made by the administration, having looked at the facts, that the course of conduct in a particular country, even though it includes violations of human rights, does not rise to that level. Obviously, this is something that is being submit-

BEST COPY AVAILABLE

ted to the Congress in each instance. The Congress, of course, if it believes this is contrary to its interpretation of the law, can disapprove what it is that's being proposed.

Mr. YATRON. The law should be applied evenly to all countries. This is one of the——

Mr. SCHIFTER. There is no question about that, Congressman. It does.

Mr. YATRON. According to Public Law 98-447, legislation regarding the practice of torture, the chief of mission assigned to a country where torture is regularly practiced is to report to you, Mr. Secretary, regarding efforts made by the respective U.S. mission to implement U.S. policy on torture.

How often do you receive these reports, and from which chiefs of missions are they required?

Mr. SCHIFTER. The situation is as follows, Congressman. In the first instance, torture is one of the very important issues that must be reported on annually in the Country Reports. We get detailed reports in that context annually, across the board, from all countries.

In addition to that, as situations arise in reports of torture in any particular country, or as we get a report in Washington of a case of torture, we either get a report from the field or we ask for one to be submitted to us immediately. So this is actually something that goes on on a current basis.

Beyond that, Congressman, I can tell you this: That since I took office I have particularly focused on this question because this is the most egregious problem that I really believe we ought to get on top of. In a number of situations I have personally talked to our Ambassadors in those countries. I have talked to the Ambassadors of these countries in Washington, to really deal with this question as effectively as one can under the circumstances. I just want to assure you that we are definitely pursuing this.

Let me also say there will be filed before the Human Rights Commission, within the next 2 weeks, a comprehensive report on torture, the so-called Rapporteur on Torture, the office established by the Human Rights Commission last year. I have every reason to think that that will be a comprehensive report that will be of use to us as well.

Mr. YATRON. Are there any countries that you can specifically name at this time? If not, maybe you could——

Mr. SCHIFTER. We would prefer not to. I can assure you that the countries that come to mind when one thinks about it are countries that come to our mind and that we have certainly been actively involved in working on.

Mr. YATRON. Are there any standard procedures presently in place within the Bureau to evaluate these reports from U.S. missions, to assess the gravity of a particular situation, and to suggest what means are available to reduce the practice and effect of torture?

Mr. SCHIFTER. Congressman, I don't think we have set up any standard operating procedure, other than these are matters that I personally get involved in. These are things that come to my desk, and I then try to figure out, in working with my colleagues, as to how best to deal with it.

BEST COPY AVAILABLE

Mr. YATRON. Do the regional bureaus receive any reports?

Mr. SCHIFTER. Yes, they do. On all of these matters, of course, the regional bureaus and we get together and talk things over.

I want to say, as I indicated in my opening statement, I am impressed by the interest shown in human rights problems by these colleagues of ours.

Mr. YATRON. Regarding El Salvador, Amnesty International alleges that the majority of reported abuses against noncombatants have been inflicted by forces under the authorities' control, while the Country Reports maintain that 55 percent of the political killings were committed by the guerrillas, based on local press and other sources.

What methodology does the Bureau use in arriving at these numbers?

Mr. SCHIFTER. We have in our Embassy in San Salvador a full-time human rights officer. As a matter of fact, the preceding human rights officer, who served there from 1983 to 1985, is somebody who is now in our Bureau. She was the person responsible for setting up the methodology which is a matter of analyzing, above all, the reports that come through the newspapers, reviewing the material from Totella Legale. These are materials which we analyze and then, on the basis of the analysis that we make, we then offer our best judgment as to the number of deaths which are reported on a monthly basis to Washington.

Mr. YATRON. Aren't some of these reports that come in from the press coming from the military as well?

Mr. SCHIFTER. Congressman, we try to analyze things on the basis of all the available data. We try to make a judgment on the basis of our understanding of what it is that's going on. I would say that, again, I have been impressed by the sincerity of Ambassador Corr and other people that are working there, in terms of getting to the bottom of problems and trying to really establish the facts as they see it rather than as anybody else sees it.

Mr. YATRON. The administration proposes $25 million in aid to Mozambique. Section 813 of the International Security and Development Cooperation Act requires that Mozambique make a concerted effort to comply with internationally recognized human rights standards as one condition for assistance. The Country Reports note that Mozambique has a political system which allows no opposition, tightly controls speech, press, and assembly, and engages in torture, surveillance, prolonged detention, and other violations. Freedom House rates Mozambique as "not free."

Would you agree that under these circumstances the Government of Mozambique does not qualify for United States aid?

Mr. SCHIFTER. Congressman, that's a real tough one. There is no question that whatever is being attempted there concerning Mozambique is driven primarily by considerations of the political situation in southern Africa and a hoped for role by Mozambique in stabilizing the situation politically in southern Africa, so as to permit the entire region to move forward in a constructive manner toward peace as between the countries involved and also ultimately peace within South Africa. All of this is closely related.

Now, there is no doubt about the nature of the Government of Mozambique which in years past has traditionally been close to the

BEST COPY AVAILABLE

Soviet Union. To the extent to which they're prepared to detach themselves from the Soviet Union, one would hope they would also be prepared to modify their internal governmental operations so as to detach themselves not only regarding foreign policy from the Soviet Union, but also to detach themselves in terms of their domestic affairs from the Soviet Union. One would hope that this would happen, but I recognize that this is one country where one would have to go quite a distance yet.

Mr. YATRON. I would think that Mozambique has failed our human rights——

Mr. SCHIFTER. Well, there is no question, if you look at the past record, they have not covered themselves with glory by any means. That's true.

Mr. YATRON. The Country Reports noted that the number of civilian, noncombatant deaths in Guatemala dropped from 491 in 1984 to 304 in 1985, and kidnapings and disappearances also declined to the lowest levels in years, approximately 198.

How are these figures derived? Is the methodology used for Guatemala the same as for other countries, and does it remain consistent over the years?

Mr. SCHIFTER. My understanding, Congressman, is that here again we're dealing with a formula developed—an approach and methodology developed by our Embassy, in this case the Embassy in Guatemala City, that analyzes reports that are available within Guatemala. Of course, what we have had in Guatemala during the last year, quite aside from everything else, we now have had a transition to an elected democratic government that all people of good will have a great deal of hope for. We hope that the Government of Guatemala, under President Cerezo, will simply eliminate the problem of counts and the need to do any further work on methodology or analysis of this kind.

Mr. YATRON. I share that hope.

Mr. Secretary, the Romanian Government continues to be one of the most, if not the most, repressive regimes in the Eastern bloc. According to the Country Reports, the Communist party seeks to control every significant aspect of the country's life. In view of Romania's abridgment of personal liberties and freedoms, is it wise for us to continue granting most-favored-nation [MFN] trade status to this country?

Mr. SCHIFTER. Congressman, this, of course, is a very important issue before all of us, and certainly it has been considered very actively on Capitol Hill. What I want to point out is, in the first instance, the matter of tying most-favored-nation status to human rights issues is derived from the Trade Act of 1974, and in that case was tied only to the question of emigration and nothing else. So that in the first instance the issue is one of that particular tie.

With regard to emigration, the Romanian Government has made a major effort to accommodate to our concerns—although I must say the record has by no means been perfect there, either. However, there is an effort there to try to work with us and there's a hope they would perfect it.

What I want to say is the mere fact that most-favored-nation status is technically, by the Trade Act of 1974, tied to emigration, that has not prevented the Government of the United States from

BEST COPY AVAILABLE

concerning itself with a whole variety of other human rights aspects of what it is that's going on in Romania.

I want to underline that when Secretary Shultz went to Bucharest in December, human rights concerns, particularly the problems of religious freedom that arise in Romania, were very high on his list and were taken up and discussed at length with Romanian officials. They are fully aware of the concerns of the executive branch, and the concerns of the Congress have been made very, very clear to them, and they know what the possible consequences might be.

Mr. YATRON. Many congressional inquiries—and I personally made some myself—directed to Romanian authorities on behalf of individuals seeking to emigrate have been ignored, time after time. If that Government is so unresponsive to the U.S. Congress, how does it interact with the administration, or your good office, Mr. Secretary? Do you elicit a more positive response than we in your interactions with the Romanians?

Mr. SCHIFTER. The answer to that, Congressman, would be we sometimes do and we sometimes don't. The situation is that there are occasions when we do get positive answers. Their release of Father Calciu last year was, of course, a leading one, a situation in which they certainly did respond to what we had asked for.

The matter, I want to emphasize, has been made very, very clear to the Romanian Government that this is of great concern and that the issues, all the issues we are dealing with here, need to be resolved satisfactorily. It's a matter of active discussion between Ambassador Kirk and the Romanian Government, our Ambassador in Bucharest. It is something that your former colleague, Mr. Derwinski, is very much involved in.

What I just want to tell you is that on all these questions the executive branch is mobilized and the message is being put to them that we hope there will be improvements in specific areas.

Mr. YATRON. Have you had any discussions regarding the Mr. Napoleon Fodor case?

Mr. SCHIFTER. Yes.

Mr. YATRON. President Reagan has said, "We intend to use the Genocide Convention in our efforts to expand human freedom and fight human rights abuses around the world." Do you anticipate the President taking a more vigorous role in encouraging the Senate to ratify the Genocide Convention?

Mr. SCHIFTER. Congressman, it is now the business of the Senate. No. 1, the President, as you have suggested, has been clearly on record and I know for a fact is working on the matter at this time as well. There is every reason to hope that the Senate will act within the next few days.

Mr. YATRON. I think the President will have to play a more vigorous role to encourage the Senate to move in that direction.

Mr. SCHIFTER. I have reason to think that that is taking place.

Mr. YATRON. The Country Reports indicate that the Salvadoran Government has made progress in reducing human rights abuses committed by security forces and noted that the detentions of members of the military for violations of law rose from 3 to 271 over the past 5 years.

BEST COPY AVAILABLE

How many members of the armed forces have actually been convicted and punished for human rights abuses? Why have no officers been successfully prosecuted, and do we anticipate this trend to continue?

How is meaningful progress to be made in promoting respect for human rights if the main perpetrators remain above the law?

Mr. SCHIFTER. Congressman, first of all, before I can give you an exact figure, I would have to check in my office and get back to you on that.

Mr. YATRON. You can provide that for the record.

Mr. SCHIFTER. Yes, I will do that.

What comes to my mind is there were two people who were responsible for the killing of an American and who were convicted just within the last 10 days or so.

As far as the whole problem of the operation of the prosecutorial and judicial function in El Salvador is concerned, this is still a matter of concern to all of us. Let me say the United States Government is working very actively in this field in terms of trying to provide, through appropriate independent channels, resources for the improvement of the judicial and prosecutorial work in El Salvador.

[The information was subsequently submitted:]

A recently completed study by the Attorney General's Office in El Salvador show that 627 military defendants were prosecuted for criminal offenses from 1969 to date. This information not only documented offenses committed by El Salvadoran Armed Forces personnel but included the name and rank of the defendants involved, as well as the offense committed. Of the 104 cases that reached trial, there were thirty-nine convictions and sixty-five acquittals. This amounts to a conviction rate of 37.5%.

The Attorney General's study also indicates that the overwhelming number of criminal offenses being prosecuted in Salvadoran courts were committed by common soldiers, not officers. Those that were resolved by either a conviction or acquittal reflect the same very low conviction rates.

Putting all of this data in perspective, one should not lose sight of the fact that many cases are never resolved because of lack of evidence or other technical legal reasons that require dismissal.

Mr. YATRON. The administration has proposed to provide Guatemala $10 million in MAP [Military Assistance Program] and $500,000 in IMET [International Military Education and Training] for fiscal year 1987. Has the new civilian government officially requested this assistance? How will the IMET Program be structured to ensure that the awareness of basic human rights is increased, as is required by section 543 of the Foreign Assistance Act of 1961?

Mr. SCHIFTER. First of all, I don't know offhand whether the new government has requested this amount. I would have to get this checked out. I also believe there won't be any difficulty in our working with the new government under President Cerezo, to make sure that human rights concerns of ours will be fully addressed.

[The information was subsequently submitted:]

President Cerezo and his Ambassador to Washington have stated that Guatemala wants and needs military assistance. Cerezo has also specifically asked for help in reorganizing his police forces and in training a new cadre of officers to ensure greater professionalism and respect for human rights. We believe it is important for the development of democracy in Guatemala and for President Cerezo's relationship with the military forces to have the proposed modest MAP program available for FY 86, and the additional funds available for FY 87.

BEST COPY AVAILABLE

Guatemala could effectively use some military assistance to enhance its anti-insurgency capabilities.

When Cerezo makes the formal request, because of Guatemala's precarious economic situation, we have chosen to substitute approximately $5 million in MAP for the $10 million FMS credits that Congress authorized for FY 86. This will require taking these funds from monies earmarked for Tunisia. We have begun consultations with Congress on our proposal to use 614 waiver authority in this regard.

Mr. YATRON. I think I have asked all the questions I have, Mr. Secretary. Unfortunately, the other members had other commitments and were unable to be here, but perhaps the next time we'll have a longer discussion and more questions for you.

I want to thank you very much for being here. I look forward to working with you in trying to promote and improve respect for human rights around the world.

Mr. SCHIFTER. Than you, Congressman. That's exactly what we want to do.

Mr. YATRON. Thank you very much.

The subcommittee stands adjourned until the call of the Chair.

[Whereupon, at 2:10 p.m., the subcommittee was adjourned.]

BEST COPY AVAILABLE

U.S. HUMAN RIGHTS POLICY

WEDNESDAY, FEBRUARY 26, 1986

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON HUMAN RIGHTS AND
INTERNATIONAL ORGANIZATIONS,
Washington, DC.

The subcommittee met, at 2:21 p.m., in room 2172, Rayburn House Office Building, Hon. Gus Yatron (chairman of the subcommittee) presiding.

Mr. YATRON. The subcommittee will come to order. The Subcommittee on Human Rights and International Organizations meets today to continue its review of U.S. human rights policy.

Last week the Assistant Secretary of State for Human Rights presented testimony concerning the administration's recently released Human Rights Reports and apprised the subcommittee of the role human rights plays in the conduct of American foreign policy.

Human rights as a foreign policy concept has its roots in congressionally mandated initiatives which recognized that U.S. strategic, political, and economic interests can best be served by promoting democratic institutions and individual liberties.

While there is no doubt that both the Congress and the administration support human rights for all the world's people, there are sharp differences as to how to forge an effective bipartisan consensus on this topic.

With these concerns in mind, the Congress, over the years, has relied greatly on independent sources to gather information on human rights practices worldwide.

Nongovernmental organizations with an expertise in human rights have inspired many of the policies in place today.

However, U.S. laws regarding human rights have been interpreted differently to tailor a particular administration's interests. These differing interpretations have sometimes contributed to a "double standard" in U.S. policy, thereby undermining American credibility abroad.

Today's hearing affords the subcommittee an excellent opportunity to better evaluate the legal framework of U.S. human rights policy. I look forward to hearing from our witnesses.

Our witnesses today will be testifying as a panel. We are pleased to welcome Ms. Felice Gaer, executive director of the International League for Human Rights; Ms. Diane Orentlicher, deputy director, lawyers committee for human rights; Ms. Holly Burkhalter, Washington representative, Helsinki Watch/Americas Watch/Asia

BEST COPY AVAILABLE

Watch; and Mr. Curt Goering, deputy director, Amnesty International, U.S.A.

It would be very much appreciated if the witnesses would limit their oral statements to 5 minutes or less. This way we will have more time for the questions and the question-and-answer period. The entire text of your written statements will be included in the record.

Our first witness will be Ms. Gaer. Ms. Gaer, I would like to welcome you back again. Will you please begin with your statement.

Ms. GAER. Thank you, Mr. Chairman.

It is a pleasure to be here again.

STATEMENT OF FELICE D. GAER, EXECUTIVE DIRECTOR, INTERNATIONAL LEAGUE FOR HUMAN RIGHTS

Ms. GAER. The explicit attention to human rights matters in the conduct of U.S. foreign policy is a continuing credit, I believe, to the vision, perseverance, and oversight exercised by the Congress and by this Subcommittee on Human Rights, in particular.

Despite the carping of opponents of human rights, who call themselves "realists" or state that there is no room in our foreign policy for moral matters, this subcommittee and the Congress have remained steadfast to the American vision, the lesson of freedoms and democracy, and to the advancement of the worldwide postwar consensus for respect for the dignity of man, and the responsibility of nations to provide guarantees of this to the inhabitants of this planet.

Unfortunately, the Reagan administration has traveled a rockier road. Initially, it expressed disdain—no, I would say, contempt—for those advocating human rights considerations in foreign policy.

Still manifestly uncomfortably with the concept, it has made great progress in improving its rhetoric. President Reagan himself, on Human Rights Day, in December, has called for Americans "to work for the expansion of freedom throughout the world," because "freedom is not only morally right but practical and beneficial."

But such talk is not enough. True, there have been some lucky—even dazzling—breaks in the past year and the past days. The administration has hurriedly responded appropriately to manage them. But these are exceptions and not the rule.

The United States still lacks a coherent, consistent, across-the-board human rights policy, one that manifests leadership and vision.

The administration's human rights policy can perhaps be best characterized as "followership." Followership rather than leadership.

In its words and actions, the administration has followed breaking events in the outside world. It has followed the directives and the mood of the Congress, where the leadership in human rights still resides.

The administration has followed the media, nongovernmental human rights organizations and special interest groups.

Repeatedly, it has been dragged, kicking, and screaming to the point when suddenly it reverses its prior statements and declares

BEST COPY AVAILABLE

its sometimes "warm" support for what everybody else was saying all along.

And until then, the administration has repeatedly resisted, or actively opposed specific criticism of dreadful dictators and their perfidious policies.

But even these occasionally lofty sentiments are then often contradicted by the administration's deeds: Continuing military and diplomatic support, warm embraces, and ever-present excuse making—to wit, that one has to understand the offending government's point of view, that there is a terrorist threat or worse, or that human rights groups are "political" or "exaggerate" the problems.

This hardly creates credibility for the United States as a proponent of human rights and freedoms, worldwide.

The United States needs to do more than make declarations that say what the administration thinks Americans want to hear, and to provide free transport for fleeing dictators, dictators who have been getting a free ride on their human rights policies far too long already.

The U.S. Government has leverage to use—if it chooses to use it. It has the power to persuade governments. Its avowed policy preference for "quiet diplomacy" can only be credible alongside a public articulation of concern and demonstrable action.

There is another aspect of administration diplomacy that undermines U.S. human rights policies: its attitude toward international human rights bodies.

Efforts to promote human rights are part of important international obligations and concerns. Human rights have received their greatest affirmation in these international bodies. The United States once played a leadership role in them. Today, the U.S. role is one of negativism and often obstructionism.

I know this subcommittee plans to review the U.S. role on its performance in the U.N. Human Rights Commission, and I do not wish to distract from those hearings. But it must be said at this point that, in instance after instance, the overall contempt of the administration for international human rights bodies has been having a destructive effect. It destroys credibility in the U.S.'s lofty statements about human rights. More importantly, it weakens the international organs where human rights standards are set and where primitive enforcement mechanisms are being developed.

By its negativism, the administration leaves the initiative to others and abandons leadership in defining and implementing important human rights standards to be chipped away by forces that oppose human rights.

It is a pity because these small victories have been hard won in those political forums of the United Nations.

The State Department's Country Reports on Human Rights Practices for 1985 reveal many of the tendencies noted above. It is nonetheless the most comprehensive book of its kind produced by any government or other body in the world today. But those of us who work to advance respect for human rights worldwide seek better.

In response to questions, or during the question period, I will be glad to draw attention to some of the specific inaccuracies, missta-

61-727 O - 86 - 2

BEST COPY AVAILABLE

tements, or inappropriate references or conclusions in the Country Reports.

Let me add that the United States should be more active in combining symbol with substance. They should seek not just leadership changes at the top from departing despots but the advancement of the existence of a diverse set of social, political, and legal institutions within various countries.

Advancing ways to assure that citizens are able to know their rights and to claim their rights before courts and other bodies, should be the goal. And, to assure that they may communicate their concerns to individuals inside the country and outside, particularly, to a set of effective international legal bodies—should be the practice.

When individuals and independent groups seeking to do this are threatened, the United States should be unmistakeable in its actions to protect them in their peaceful exercise of human rights. It has not always been.

To be effective, the administration needs to expand its contacts with the rest of the world, not to reduce them.

It needs to have more elements that provide leverage: economic assistance, trade and cooperation, military assistance, moral credibility.

The United States must be a presence internationally with a more internationalist—and evenhanded—position on human rights. And, instead of "followership," Mr. Chairman, it must once again assume a position of leadership in these areas.

Thank you.

Mr. YATRON. Thank you very much, Ms. Gaer, for your statement.

[The prepared statement of Ms. Gaer follows.]

BEST COPY AVAILABLE

PREPARED STATEMENT OF FELICE D. GAER, EXECUTIVE DIRECTOR, INTERNATIONAL LEAGUE FOR HUMAN RIGHTS

The explicit attention to human rights matters in the conduct of U.S. foreign policy is a continuing credit to the vision, perseverance and oversight exercised by the Congress, and by the Subcommittee on Human Rights in particular. Despite the carping of opponents of human rights, who call themselves "realists" or state that there is no room in our foreign policy for moral matters, this Subcommittee and the Congress have remained steadfast to the American vision, the lesson of freedoms and democracy, and to the advancement of the worldwide postwar consensus for respect for the dignity of man and the responsibility of nations to provide guarantees of this to the inhabitants of this planet.

Unfortunately, the Reagan Administration has travelled a rockier road. Initially, it expressed disdain, -- no, contempt -- for those advocating human rights considerations in foreign policy. Still manifestly uncomfortable with the concept, it has made great progress in improving its rhetoric. President Reagan himself has called for Americans "to work for the expansion of freedom throughout the world," because "freedom is not only morally right but practical and beneficial" (December 10, 1985 Human Rights Day speech).

But such talk isn't enough. True, there have been some lucky --even dazzling --breaks in the past year; the Administration has hurriedly responded appropriately to them. But these are exceptions and not the rule.

The U.S. still lacks a coherent, across-the-board human rights policy, one manifesting leadership and vision.

BEST COPY AVAILABLE

The Administration's human rights policy can perhaps be best characterized as "followership." Followership rather than leadership.

In its words and actions, the Administration has followed breaking events in the outside world and it has followed the directives and mood of the Congress, where the leadership in human rights still resides. The Administration has followed the media, non-governmental human rights organizations and special interest groups. Repeatedly, it is dragged kicking and screaming to the point when suddenly, it reverses its prior statements and declares its support for what everybody else was saying all along.

And in case after case until then, it has repeatedly resisted or actively opposed specific criticism of dreadful dictators and their perfidious policies. But even these occasionally lofty sentiments are then often contradicted by the Administrations's deeds: continuing military and diplomatic support, warm embraces, and ever-present excuse making, to wit, that one has to understand the offending government's point of view, that there is a terrorist threat (or worse), that human rights groups are "political" or "exaggerate" the problems, etc.

This hardly creates credibility for the U.S. as a proponent of human rights and freedoms.

The United States needs to do more than make declarations to say what they think Aemricans want to hear and to provide free transport for fleeing dictators. The U.S. government has leverage to use -- if it chooses to use it. It has the power to

BEST COPY AVAILABLE

persuade governments. Its avowed policy preference for "quiet diplomacy" can only be credible alongside a public articulation of concern and demonstrable action.

There is another aspect of Administration diplomacy that undermines U.S. human rights policies: its attitude towards international human rights bodies.

Efforts to promote human rights are part of importnat international obligations and concerns. They have received their greatest affirmation in these international bodies. The U.S. once played a leadership role in them. Today, the U.S. role is one of negativism and often obstructionism. I know this Subcommittee plans to review the U.S. role in the UN Human Rights Commission and I do not wish to distract from those hearings. But it must be said that in instance after instance, the overall contempt of the Administration for international human rights bodies has a destructive effect: it destroys credibility in the US's lofty statements about human rights. More importantly, it weakens these organs where human rights standards are set and where primitive enforcement mechanisms are being developed. By its negativism, the Administration leaves the initiative to others and abandons important human rights standards that have international sanctions -- hard won in those political forums of the UN -- to be chipped away by forces that oppose human rights.

The State Department's "Country Reports on Human Rights Practices for 1985" reveals many of the tendencies noted above. It is nonetheless the most comprehensive book of its kind produced by any government or other body in the world today. But those of us who work to advance respect for human rights

BEST COPY AVAILABLE

worldwide seek better.

In reponse to questions, I shall draw attention to some of the inaccuracies, misstatements, or inappropriate references in the country reports.

The U.S. should be more active in combining symbol with substance: advancing the existence of a diverse set of social, political, and legal institutions in various countries. Advancing ways to assure that citizens are able to know their rights and to claim them before courts and other bodies. And to assure that they may communicate their concerns to individuals inside the country and outside, especially, when internal efforts fail, to contact a set of effective international legal bodies.

When individuals and independent groups seeking to do this are threatened, the US should be unmistakeable in its actions to protect them in their peaceful exercise of human rights.

To be effective, the Administration needs to expand contacts with the rest of the world, not to reduce them. It needs to have more elements that provide leverage: economic assistance, international trade and cooperation, military assistance, moral credibility. The US must be a presence internationally with a more internationalist -- and evenhanded-- position on human rights. And it must once again assume a position of leadership in these areas.

BEST COPY AVAILABLE

DRAFT STATEMENT OF LEAGUE PURPOSES AND ACTIVITY

Founded in 1942, the International League for Human Rights is one of the oldest private international human rights organizations. The League strives to promote and protect internationally guaranteed human rights as defined in the International Declaration of Human Rights and the Covenants on Civil and Political, and Economic and Social Rights. The League has a network of 40 affiliated groups worldwide who defend human rights in their own countries.

A principal concern of the League is to strengthen and protect human rights defenders worldwide and to make their work more effective.

Because publicity can cause governments to end human rights abuses, the League seeks to expose human rights violations whereever they occur and bring them to public attention. To this end, it undertakes fact-finding missions when conditions warrant, issues reports, lodges appeals, and mobilizes protests.

The League's core program includes:

(1) Taking immediate steps through a casework program to protect and assist human rights defenders who themselves become targets of repression because of their human rights activities;

(2) Enabling representatives of Third World and other League affiliates to raise issues of concern to them before the international community, specifically in the human rights bodies within the United Nations system and the Organization of American States;

(3) Building an international consensus that activity in defense of human rights warrants protection under international law; and

(4) Strengthening the international mechanisms that can protect human rights defense.

Through its Covenant Compliance Project, the League systematically examines the reports submitted by signatory governments to human rights treaty-monitoring bodies in order to insure more effective compliance and to keep the record of achievement straight.

BEST COPY AVAILABLE

Mr. YATRON. Our next witness is Ms. Orentlicher. I would like to welcome you; you may please proceed with your statement.

STATEMENT OF DIANE ORENTLICHER, DEPUTY DIRECTOR, LAWYERS COMMITTEE FOR HUMAN RIGHTS

Ms. ORENTLICHER. Thank you. It is a pleasure to be here.

I am particularly happy to be here at this time, because this hearing comes at a critical point in terms of the formulation of U.S. human rights policy. Recent events represent a dramatic departure by the administration from its longstanding reluctance to abandon pro-Western governments, however abusive they are toward their own citizens. I have in mind the administration's role in facilitating efforts to end long eras of repression in both Haiti and the Philippines.

In both cases, however, the administration's policy, however effective it was, was a reaction to crisis. I think it is appropriate now to consider how we can build on the administration's recent initiatives, fashioning an effective policy on a long-term basis that can be more effective—though perhaps less spectacular—than one that comes into play only when developments reach a boiling point.

Looking to the Philippines itself, from which I have just returned, I think it would be appropriate for Congress at this time to pay particular close attention to what role the U.S. Government ought to play in the near future. Having facilitated a dramatic transition from dictatorship to democracy, the U.S. Government should begin to consider what role it should play in supporting the new administration's efforts to restore democratic institutions while it seeks to counter a Communist insurgency and a failing economy.

The challenges confronting President Aquino, as she tries to rebuild the country, are daunting. On the human rights front, several potential threats to her efforts to gain control over the armed forces merit particularly careful attention by Congress.

First, while President Marcos has left the country a number of provincial war lords loyal to him who have amassed enormous power on a local level, and who exert substantial control over local armed forces, remain in place.

Second, by dint of an extraordinary turn of events in recent days, President Aquino has appointed as her Defense Minister a man whose human rights record under the Marcos administration, which he served loyally for two decades, was disturbing, to say the least.

Third, her newly appointed chief of staff, Gen. Fidel Ramos, in his capacity of chief of constabulary under the Marcos government supervised a 70,000-man strong civilian militia, which was notorious for massive human rights violations. I met with General Ramos Saturday morning before his dramatic defection from the Marcos administration and, not knowing the events that were about to unfold, raised with him my concerns about the role of the civilian militia in the recent election. He staunchly defended their use, insisting that they were necessary to the country's counterinsurgency campaign.

BEST COPY AVAILABLE

For the last two reasons in particular as President Aquino seeks to counter the continuing threat to her government posed by the Communist insurgency, she may face pressure to capitulate to military policies that are not conducive to respect for human rights. I think it is important to recognize that the United States Government's own concern about the military situation in the Philippines may, in fact, intensify those pressures.

Congress has a vital role to play in keeping a watchful eye to ensure that future U.S. military aid supports the democratic aspirations of President Aquino, and is not used to pressure her to capitulate military policies that have proven harmful to human rights.

Turning elsewhere, Congress also has a significant role in seeking to apply the lessons of recent weeks to other countries, where a democratic transition and respect for human rights are still no more than aspiration. I have in mind South Africa, South Korea, Chile, Liberia, to name just a few.

In particular, developments in Haiti and the Philippines demonstrate that the United States can be quite influential in promoting constructive change, and also that U.S. strategic interests are served by promoting governments that are founded on respect for human rights.

As constructive as the U.S. role in the Philippines ultimately proved to be, the evolution of that role gives us cause for concern that the administration's recent actions do not yet reflect a fundamental commitment to actively promote forces for democratic transition in countries that are allied to the United States. This is suggested by the fact that in both Haiti and the Philippines, the administration was reluctant to take decisive and forceful action until the situations there reached a crisis point, when the administration had little choice but to react.

While it's tempting to conclude now that the administration's approach—however ad hoc it was—proved effective, in fact, I think it is important to recognize that Filipinos paid a heavy price for the initial reticence of the administration to support their quest for human rights. I was in the Philippines when President Reagan made his first statement attributing fraud to both sides in the campaign, and I can tell you that the reaction was one of devastation on the part of Filipinos who were fighting desperately to reclaim democracy against seemingly insurmountable odds.

They had fought very hard to ensure that the election would be fair. It was clear by that point that they were not fair. Filipinos, on the whole, felt that they had done everything humanly possible to try to reclaim democracy, and that they needed outside help. They were looking to President Reagan for that support.

Not only was the support not forthcoming immediately, but when President Reagan finally spoke, he literally pulled the floor out from under them, and I think it will take a long time for the Filipino public to recover from that wound.

Apart from that recent development, the Reagan administration was reticent in earlier years—particularly the period from 1981 to 1983—to press for any change in the human rights situation in the Philippines at all. The effect of that was to prolong a crisis that could have been resolved much sooner. The cost was not merely a

BEST COPY AVAILABLE

delay in achieving democracy; hundreds of lives were lost unnecessarily in the process. Well over 100 lives were lost in the period from the date of the election to the time the Reagan administration urged President Marcos to resign.

In closing, I would just like to reiterate that I think Congress can play a vital role in ensuring that the recent actions of the administration become integrated into a well-thought-out human rights policy, reflecting more than simply a last-ditch response to crisis.

Mr. YATRON. Thank you very much, Ms. Orentlicher, for your statement.

Our next witness is Ms. Holly Burkhalter. We welcome you back again. You may proceed with your statement.

Ms. BURKHALTER. Thank you, Mr. Yatron, for having me.

STATEMENT OF HOLLY BURKHALTER, WASHINGTON REPRESENTATIVE, HELSINKI WATCH/AMERICAS WATCH/ASIA WATCH

Ms. BURKHALTER. As I am representing three human rights groups—the Americas Watch, the Helsinki Watch, and the Asia Watch—I cannot even begin to touch on all the many issues our three committees cover.

I did include with my statement copies of a report that the Watch Committees wrote, along with the Lawyers Committee, which Diane represents, which you have before you and at your leisure can pursue.

It includes an analysis of the Reagan administration's human rights record throughout 1985, and it covers a number of countries.

And I would like to just speak a little bit about our conclusions there.

As you can see in the introduction of the report, we state that 1985 saw an improvement generally in the Reagan administration's human rights efforts, and we singled out a couple of countries.

We noticed an improvement—and I can describe the details if you are interested—in the human rights policy with respect to Liberia, Haiti, Chile, South Africa; and we described each one in detail in the report.

We commend the Reagan administration for some improvements in those countries.

Some of the improvements were related to putting in particularly good ambassadors, for example, in the case of Chile.

Others were the case of speaking out forcefully, as the Reagan administration has begun to do on South Africa, for example.

But I think it is not a coincidence that some of the places where we noted some real improvements in the Reagan administration human rights policy have been areas that the Congress has concentrated on very closely. Your own work, Mr. Yatron, for example, on Haiti, has been very helpful.

Mr. Smith's work on Romania, for example, also, is an example of the kind of congressional advocacy that helps bring along the administration, and I just cannot say enough about how important that is, and I would associate myself with the remarks of Ms. Gaer and Ms. Orentlicher in this regard.

Naturally, human rights groups will disagree with the Government of the United States about emphasis, about certain policies

BEST COPY AVAILABLE

here and there. That would not come as a surprise. I think, however, there is one thing we can all agree on. And that is the need to have accurate and careful human rights reporting, and to help support those that monitor human rights in dangerous situations.

And if I could just bring up one point that the Watch Committees are particularly concerned about in terms of the Reagan administration's human rights policies; it would be on this matter of the way it depicts human rights monitors and the work of human rights advocates around the world.

The Reagan administration Country Reports unfortunately include some statements which unfairly depict the work of human rights monitors, and imply that human rights monitors, which are critical of friendly governments are "leftist," or "subversive," and "associated with something other than a human rights effort."

I call your attention, for example, to the depiction of the Task Force Detainees in the Philippines, which the Country Reports described as a "leftist group," and how the reporting is flawed because many think that they are associated with leftists.

The report does not mention that many Filipino monitors lost their lives in 1985, and some of them had been associated with Task Force Detainees; and I think ill-considered remarks like that about a very well-respected group, which has provided, really just done an heroic job in the Philippines, for example, not only undermines their efforts, but can threaten their lives.

We have pointed out these problems in past analyses of the State Department Country Reports on Human Rights, and we will continue to do so.

I might also say that the Reagan administration's recent statements about a disinformation campaign on Nicaragua are really a low point, in terms of rhetoric about human rights groups, or peace groups.

As you know, on February 18, the White House held a secret briefing for certain Members of Congress and flourished a classified document in which were named several groups. Some of those names were leaked to the press, and appeared in the press; and these groups were accused of being involved in a disinformation campaign, in the service of the Nicaraguan Government.

While my own group was not named, that is not the point. The point is the approach to dissent in our own country, which we regard as our own human right as "anti-American" or as "disinformation," or as, in a word, "traitorous" is a very serious development, indeed, for human rights in this country, and for human rights generally.

I might also say that the Assistant Secretary of State for Inter-American Affairs, Elliott T. Abrams, remarks in a February 22 letter to the editor of the New York Times that a columnist who had been critical of the Reagan administration Central America policy was guilty of anti-Americanism is another unfortunate low point.

Again, I think that the one thing we can all agree on is that people of goodwill can disagree about policy, but also that human rights monitors, when they have something to say that does not comport with the Reagan administration's policy are not the enemy; they are not working in the service of foreign governments;

BEST COPY AVAILABLE

they are not engaged in disinformation. They are trying to do a job, and in some cases they are trying to do a job at the risk of their own lives.

And I would really just call upon the administration to cease with these kinds of remarks.

Thank you.

Mr. YATRON. Thank you very much, Ms. Burkhalter, for your statement.

[The prepared statement of Ms. Burkhalter follows:]

BEST COPY AVAILABLE

PREPARED STATEMENT OF HOLLY BURKHALTER, WASHINGTON REPRESENTATIVE, AMERICAS WATCH/HELSINKI WATCH/ASIA WATCH

AMERICAS WATCH
REPLY TO: 36 WEST 44TH STREET, NEW YORK, NEW YORK 10036 (212) 840-9460
REPLY TO: 739 EIGHTH STREET, S.E., WASHINGTON, D.C. 20003 (202) 546-9336

HELSINKI WATCH

ASIA WATCH

Thank you for this opportunity to testify, Mr. Chairman. My name is Holly Burkhalter, and I am the Washington Representative for three affiliated human rights organizations, the Americas Watch, Asia Watch, and Helsinki Watch. Because it is not possible to describe our organizations' concerns in all of the countries which we monitor, I would like to take this opportunity to single out a few countries where we believe the Reagan Administration has had a particularly effective human rights policy, and describe several instances where U.S. policy has not been effective.

The case of the Reagan Administration's policy towards Haiti is an example of how the executive branch can exercise positive influence in a particularly difficult human rights situation. Although the Americas Watch criticized the Reagan Administration over the past two years for issuing human rights reports, certifying "improvements" which were not borne out by the actual situation in Haiti, we regard it's eventual decision not to certify as a key element in President Duvalier's decision to step down from the presidency and leave the country.

BEST COPY AVAILABLE

The U.S. Ambassador to Haiti, Clayton McManaway, has played a particularly helpful role in representing concern over persistent human rights violations in Haiti. We also credit the Congress with playing an essential role in encouraging the Reagan Administration to distance itself from the Duvalier Government. If the State Department had followed the advice of Congressional human rights advocates such as Rep. Walter Fauntroy, Rep. Mike Barnes, Rep. Yatron and Rep. Ed Towns, Haiti's bloody tyranny might have ended years ago. I would like to take this occasion to particularly thank you, Mr. Chairman, for your careful attention to Haiti. Your hearings in April 1985 and your regular expressions of concern have been particularly helpful.

We also see that the Reagan Administration played an essential part in the drama which unfolded in the Philippines. Following years of whole-hearted support for President Marcos the Administration appears to have adopted a policy of advocating an end to the Marcos dictatorship and a peaceful democratic resolution of the current crisis -- a hope we all share.

We also commend the Reagan Administration for the appointment of several excellent ambassadors around the world who have advanced the cause of human rights considerably. In particular, Ambassador Barnes in Chile and Ambassador Davis who served until late 1985 in Uganda deserve mention as forceful and committed human rights advocates.

The Reagan Administration has generally had a forceful human rights policy with respect to countries unfriendly to the United States. The State Department Country Reports on Eastern European countries, for example, are detailed and comprehensive.

BEST COPY AVAILABLE

And the U.S. representatives at the various CSCE meetings have been energetic and effective; such as the mission headed by Ambassador Walter Stoessel to the Cultural Forum in Hungary recently. The Helsinki Watch would welcome a stronger human rights emphasis with respect to Poland, particularly in light of a deterioration in the human rights situation there. We would encourage the executive branch to publicly protest the growing number of political prisoners in detention when Poland is admitted into the International Monetary Fund next month. The Reagan Administration dropped its opposition to Polish participation in the IMF in late 1984 when a number of political prisoners were released. Today, many of those same people are once again imprisoned in deplorable conditions.

The Watch Committees would welcome attention to severe human rights violations in other countries, as well. We particularly regret, for example, the Administration's failure to even acknowledge, much less criticize, the Salvadoran armed forces' practice of conducting military operations against unarmed civilians living in conflicted zones. The Americas Watch and the Salvadoran Catholic Church have collected testimony from hundreds of civilians displaced from their homes by aerial bombardment, burning of their crops, and military operations where ground assaults are directed against them specifically. Our reports have been corroborated by news reports in the New York Times and the Washington Post, and are borne out by statements by the Salvadoran military officials who regularly state publicly that they consider the civilian noncombatants living in guerrilla-

BEST COPY AVAILABLE

controlled zones to be guerrillas themselves. Most recently, Salvadoran Archbishop Rivera y Damas, who traveled extensively in Chalatenango in January 1986 described the many civilians who still live in the conflicted zones and called upon the Salvadoran armed forces not to bomb them. Auxiliary Archbishop Rosa Chavez also called upon the armed forces to respect civilian life during a major military operation in Guazapa in late January. Instead of adding his voice to theirs, however, the U.S. Ambassador to El Salvador, Edward Corr, has repeatedly stated that the only evidence of military violence comes from "guerrilla sympathizers" and denies that well-known violations even occur.

As you recall, from 1980 to 1983, Salvadoran death squads worked directly with the armed forces high command and were responsible for the killing, torture, mutilation, and disapppearance of literally tens of thousands of civilians. Throughout that period, in spite of abundant evidence from the international news media and human rights groups, the Reagan Administration staunchly denied that the Salvadoran government had any responsibility for the death squad atrocities. When at last, in late 1983, the Congress forced the President to take the issue seriously, Vice President Bush was dispatched to San Salvador to meet with top military leaders and he demanded an end to military participation in death squad activities. Death squad killings plummeted almost immediately, and although they continue at the rate of approximately a dozen a month, they have not reached the high levels of the early 1980's. If the Reagan Administration would take similar action with respect to abuses carried about by uniformed members of the armed forces, we might

BEST COPY AVAILABLE

expect that a similar improvement might be obtained. But until the U.S. Ambassador and the State Department acknowledge that such abuses occur, they can't pressure for them to stop.

Perhaps the most regrettable feature of the Reagan Administration's foreign policy has been its campaign to smear as "anti-American" any who disagrees with it. Last week, the White House released a secret intelligence document describing a pro-Sandinista "disinformation" campaign by certain human rights and peace groups which were identified by name. An unclassified version is expected to be released this week. The chairman of the Senate Select Committee on Intelligence has described this McCarthyist smear campaign as "a transparent political tactic" and an "outrageous attempt to portray any opponent of aid to Nicaraguan rebels as a stooge of Communism."

Unfortunately, this is not the first time that the Reagan Administration has branded its critics as traitors. In 1982, the State Department circulated an "analysis" of human rights reports by several organizations including Amnesty International. The memorandum concluded that "a concerted disinformation campaign is being waged in the U.S. against the Guatemalan Government by groups supporting the leftwing insurgency in Guatemala... Embassy believes that what is being planned, and successfully carried out, is the Communist-backed disinformation plan..." It is interesting to note that the U.S. Embassy in Guatemala <u>now</u> appears to acknowledge that the atrocities which it denounced as "disinformation" in 1982 indeed occurred. An Embassy cable entitled "A Statistical Comparison of Violence, 1982 - 1985"

BEST COPY AVAILABLE

61-727 O - 86 - 3

enumerates 2,235 noncombatant deaths in 1982. No such information was provided at the time of these killings.

More recently, in a February 22nd, 1986 letter to the New York Times, the Assistant Secretary of State for Inter-American Affairs, Elliott Abrams accused columnist Anthony Lewis of "anti-Americanism" because Lewis opposed the Administration's policies in Central America.

Most unfortunate of all are occasions when the Reagan Administration attacks human rights monitors at home and abroad as subversives because the information they provide does not comport with the executive branch's own reports. For example, the 1985 State Country Report on Human Rights in the Philippines discredits the widely-respected Task Force Detainees, a Filipino human rights monitoring group, by describing it as "a politically active organization, reportedly with ties to leftist elements", and calls their reporting "highly questionable". In view of the fact that a number of Filipino human rights monitors were killed in 1985, a fact not mentioned in the State Department Country Report, this unfair characterization of the Task Force Detainees as pro-leftist invites further attacks on them.

Even carefully researched reports on human rights violations committed by the Nicaraguan government come under attack in the State Department's 1985 Country Reports on Human Rights. The report claims that "although a few non-governmental organizations have been allowed to enter the country to observe human rights conditions, these visits have been closely structured by the government to expose the groups only to information and situations beneficial to the government." In fact, Americas

BEST COPY AVAILABLE

Watch has published eight separate reports describing human rights violations by the Government of Nicaragua, and sent delegations to investigate abuses and make representation to the government about them on four separate occasions in 1985 alone. As the State Department knows, the only assistance the Nicaraguan government has provided us on these occasions has been to set up meetings with government officials themselves -- a practice we employ in every country we monitor. It undermines our effectiveness and our ability to seek improvements in Nicaragua's serious human rights situation to suggest that our organization is politically motivated. Americas Watch is not the only group whose reports on Nicaragua have been criticized; just last week White House spokesman Larry Speakes denounced Amnesty International's recent report on human rights in Nicaragua.

The Reagan Administration's policies have been most beneficial to human rights in those areas where Congress has taken a particular interest. Human Rights advocacy from members of both political parties has helped improve the Reagan Administration's performance in a number of countries, including South Africa, Liberia, the Philippines, Turkey, Chile, and Haiti. The Watch Committees respectfully urge you to continue to monitor closely these and other countries with troubled human rights records, and to continually request that the executive branch reflect Congressional concerns. We ask that particular attention be paid to the quality of the certifications and reports required by the Congress regarding human rights in various countries receiving U.S. aid, and to request that complete and accurate information be provided on these occasions.

Thank you for your attention.

BEST COPY AVAILABLE

Mr. YATRON. Our final witness today is Mr. Curt Goering.
Mr. Goering, we look forward to hearing your statement, sir.
Mr. GOERING. Thank you, Mr. Chairman.

STATEMENT OF CURT GOERING, DEPUTY DIRECTOR, AMNESTY INTERNATIONAL, U.S.A.

Mr. GOERING. Mr. Chairman, on behalf of Mr. Jack Healey, executive director of the U.S. section of Amnesty International, I wish to thank you for your kind invitation to participate in today's hearing on the U.S. human rights policy.

In my oral statement, I will briefly address four major principles that our section of Amnesty International believes are essential to an effective human rights policy.

These principles receive fuller treatment in the position paper on U.S. Human Rights Policy, and I request permission to submit that for the record.[1]

Mr. YATRON. Without objection.

Mr. GOERING. Thank you.

These principles are:

One, human rights must be given priority in the U.S. domestic and foreign policy. This is consonant with the fundamental values upon which this country was founded, and also with its international obligations set forth in the U.N. Charter and the Universal Declaration of Human Rights.

We believe that human rights interests cannot be separated in the final analysis from national security interests.

The universal observance of human rights is the surest guarantee of every nation's security.

Two, U.S. strategies and programs to promote human rights at home and abroad must be governed by universality.

The U.S. Government, like all governments, should steadfastly seek to ensure the rights of all individuals regardless of who they are or what they believe, and should hold every government, whether considered friendly or unfriendly, to the same standards—namely, those defined internationally by the Universal Declaration of Human Rights.

Any attempt to define human rights in other terms or to suggest that these standards apply more to certain countries than others, undermines the hard-won consensus it represents and threatens the worldwide protection of human rights.

With the human rights strategies and programs adopted, the basic criterion for choosing means must be effectiveness. What works in one case may not work in another.

For this reason, the debate over quiet diplomacy versus open denunciation is often sterile. To be quiet with friends while openly denouncing enemies reduces human rights to an instrument of propaganda and generates cynicism rather than hope.

The third principle: The U.S. Government must have a sustained commitment to strengthen domestic and international legislation, institutions, and mechanisms concerned with human rights.

---

[1] See appendix to Mr. Goering's statement.

BEST COPY AVAILABLE

During the past two decades, the United States has enacted numerous laws aimed at promoting human rights here and abroad. Nothing should now be allowed to dilute legislation that promotes human rights or to weaken the administrative structures and procedures set up for its implementation.

The United States must also play a major role in promoting human rights in international bodies. The United States has, for many years, been rightly critical of the tendency within the United Nations to apply human rights procedures on a selective and political basis. Any efforts to broaden the application of these procedures to more countries should be encouraged.

Four, the United States must use its influence and resources to combat specific human rights violations such as torture, political imprisonment, and executions.

Despite nearly universal prohibition in domestic and international law, a significant number of governments continue to practice torture, to imprison for nonviolent political opposition, and to engage in political killings.

We urge this subcommittee to continue its aggressive oversight of the implementation of U.S. policy against these abuses. Specifically, we recommend that subcommittee members meet regularly with U.S. Ambassadors to ascertain specifically how they are combating these practices.

We also recommend that the issue of human rights abuses be regularly on the agenda of meetings with foreign government officials. These officials should be queried on specific efforts they are initiating to end these abuses, and commitments should be sought from them for aggressive action against human rights violations.

We recommend that U.S. officials, including Members of Congress, continue to use their good offices to intervene on behalf of individual prisoners of conscience.

In particular, we recommend that embassy personnel be instructed—and trained—to attend political trials, to seek access to prisoners who have disappeared, or are being held incommunicado, and to press for investigations into allegations of torture or political murder.

The United States can also promote human rights abroad by demonstrating its commitment to protecting human rights at home.

In this regard, it is sad to note the the United States is one of the member states of the United Nations that still retains the death penalty, and which also shows no sign of steady progress toward its abolition.

This is in contravention of the affirmation of the General Assembly of the United Nations that member states, "in order to guarantee fully the right to live, provided for in article 3 of the Universal Declaration of Human Rights," should seek to progressively restrict "the number of offenses for which capital punishment may be imposed, with a view to the desirability of abolishing this punishment in all countries."

Mr. Chairman, we feel that the effective implementation of these principles is not only the clearest and strongest way to demonstrate a U.S. commitment to the protection of human rights; it is also a proven way to save lives.

BEST COPY AVAILABLE

Thank you.

Mr. YATRON. Thank you very much, Mr. Goering, for your statement.

[The prepared statement and appendix of Mr. Goering follow:]

BEST COPY AVAILABLE

PREPARED STATEMENT OF CURT GOERING, DEPUTY DIRECTOR, AMNESTY INTERNATIONAL, U.S.A.

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, ON BEHALF OF MR. JACK HEALEY, EXECUTIVE DIRECTOR OF AMNESTY INTERNATIONAL USA, I WISH TO THANK YOU FOR YOUR KIND INVITATION TO PARTICIPATE IN TODAY'S HEARING ON THE U.S. HUMAN RIGHTS POLICY.

IN MY ORAL STATEMENT I WILL BRIEFLY ADDRESS FOUR MAJOR PRINCIPLES THAT AMNESTY INTERNATIONAL USA BELIEVES ARE ESSENTIAL TO AN EFFECTIVE HUMAN RIGHTS POLICY. THESE PRINCIPLES RECEIVE FULLER TREATMENT IN THE AMNESTY INTERNATIONAL USA POSITION PAPER ON U.S. HUMAN RIGHTS POLICY AND I REQUEST PERMISSION TO SUBMIT THAT FOR THE RECORD.

THESE PRINCIPLES ARE:

1. HUMAN RIGHTS MUST BE GIVEN PRIORITY IN THE UNITED STATES DOMESTIC AND FOREIGN POLICY. THIS IS CONSONANT WITH THE FUNDAMENTAL VALUES UPON WHICH THIS COUNTRY WAS FOUNDED AND ALSO WITH ITS INTERNATIONAL OBLIGATIONS SET FORTH IN THE UNITED NATIONS CHARTER AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS. WE BELIEVE THAT HUMAN RIGHTS INTERESTS CANNOT BE SEPARATED FROM NATIONAL SECURITY INTERESTS. THE UNVIERSAL OBSERVANCE OF HUMAN RIGHTS IS THE SUREST GUARANTEE OF EVERY NATION'S SECURITY.

BEST COPY AVAILABLE

2. U.S. STRATEGIES AND PROGRAMS TO PROMOTE HUMAN RIGHTS AT HOME AND ABROAD MUST BE GOVERNED BY UNIVERSALITY. THE UNITED STATES GOVERNMENT, LIKE ALL GOVERNMENTS, SHOULD STEADFASTLY SEEK TO ENSURE THE RIGHTS OF ALL INDIVIDUALS REGARDLESS OF WHO THEY ARE OR WHAT THEY BELIEVE, AND SHOULD HOLD EVERY GOVERNMENT, WHETHER CONSIDERED FRIENDLY OR UNFRIENDLY, TO THE SAME STANDARDS, NAMELY, THOSE DEFINED INTERNATIONALLY BY THE UNIVERSAL DECLARATION OF HUMAN RIGHTS. ANY ATTEMPT TO DEFINE HUMAN RIGHTS IN OTHER TERMS OR TO SUGGEST THAT THESE STANDARDS APPLY MORE TO CERTAIN COUNTRIES THAN OTHERS, UNDERMINES THE HARD-WON CONSENSUS IT REPRESENTS AND THREATENS THE WORLDWIDE PROTECTION OF HUMAN RIGHTS.

WITH THE HUMAN RIGHTS STRATEGIES AND PROGRAMS ADOPTED, THE BASIC CRITERION FOR CHOOSING MEANS MUST BE EFFECTIVENESS. WHAT WORKS IN ONE CASE MAY NOT IN ANOTHER. FOR THIS REASON, THE DEBATE OVER QUIET DIPLOMACY VERSUS OPEN DENUNCIATION IS OFTEN STERILE. TO BE QUIET WITH FRIENDS WHILE OPENLY DENOUNCING ENEMIES, REDUCES HUMAN RIGHTS TO AN INSTRUMENT OF PROPAGANDA AND GENERATES CYNICISM RATHER THAN HOPE.

3. THE UNITED STATES GOVERNMENT MUST HAVE A SUSTAINED COMMITMENT TO STRENGTHEN DOMESTIC AND INTERNATIONAL LEGISLATION, INSTITUTIONS, AND MECHANISMS CONCERNED WITH HUMAN RIGHTS. DURING THE PAST TWO DECADES, THE UNITED STATES HAS ENACTED NUMERIOUS LAWS AIMED AT PROMOTING HUMAN RIGHTS HERE AND ABROAD. NOTHING SHOULD NOW BE ALLOWED TO DILUTE LEGISLATION THAT PROMOTES HUMAN RIGHTS OR TO WEAKEN THE ADMINISTRATIVE STRUCTURES AND PROCEDURES SET UP FOR ITS IMPLEMENTATION.

BEST COPY AVAILABLE

THE UNITED STATES MUST ALSO PLAY A MAJOR ROLE IN PROMOTING HUMAN RIGHTS IN INTERNATIONAL BODIES. THE UNITED STATES HAS FOR MANY YEARS BEEN RIGHTLY CRITICAL OF THE TENDENCY WITHIN THE UNITED NATIONS TO APPLY HUMAN RIGHTS PROCEDURES ON A SELECTIVE AND POLITICAL BASIS. ANY EFFORTS TO BROADEN THE APPLICATION OF THESE PROCEDURES TO MORE COUNTRIES SHOULD BE ENCOURAGED.

4. THE UNITED STATES MUST USE ITS INFLUENCE AND RESOURCES TO COMBAT SPECIFIC HUMAN RIGHTS VIOLATIONS SUCH AS TORTURE, POLITICAL IMPRISONMENT AND EXECUTIONS. DESPITE NEARLY UNIVERSAL PROHIBITION IN DOMESTIC AND INTERNATIONAL LAW, A SIGNIFICANT NUMBER OF GOVERNMENTS CONTINUE TO PRACTICE TORTURE, TO IMPRISON FOR NONVIOLENT POLITICAL OPPOSITION, AND TO ENGAGE IN POLITICAL KILLINGS. WE URGE THIS COMMITTEE TO CONTINUE ITS AGGRESSIVE OVERSIGHT OF THE IMPLEMENTATION OF U.S. POLICY AGAINST THESE ABUSES. SPECIFICALLY, WE RECOMMEND THAT THIS COMMITTEE MEET REGULARLY WITH U.S. AMBASSADORS TO ASCERTAIN SPECIFICALLY HOW THEY ARE COMBATTING THESE PRACTICES. WE ALSO RECOMMEND THAT THE ISSUE OF HUMAN RIGHTS ABUSES BE REGULARLY ON THE AGENDA OF MEETINGS WITH FOREIGN GOVERNMENT OFFICIALS. THESE OFFICIALS SHOULD BE QUERIED ON SPECIFIC EFFORTS THEY ARE INITIATING TO END THESE ABUSES, AND COMMITMENTS SHOULD BE SOUGHT FROM THEM FOR AGGRESSIVE ACTION AGAINST HUMAN RIGHTS VIOLATIONS. WE RECOMMEND THAT U.S. OFFICIALS, INCLUDING MEMBERS OF CONGRESS, CONTINUE TO USE THEIR GOOD OFFICES TO INTERVENE ON BEHALF OF INDIVIDUAL PRISONERS OF CONSCIENCE. IN PARTICULAR, WE RECOMMEND

BEST COPY AVAILABLE

THAT EMBASSY PERSONNEL BE INSTRUCTED AND TRAINED TO ATTEND POLITICAL TRIALS, TO SEEK ACCESS TO PRISONERS WHO HAVE "DISAPPEARED," OR ARE BEING HELD INCOMMUNICADO AND TO PRESS FOR INVESTIGATIONS INTO ALLEGATIONS OF TORTURE OR POLITICAL MURDER.

THE UNITED STATES CAN ALSO PROMOTE HUMAN RIGHTS ABROAD BY DEMONSTRATING ITS COMMITMENT TO PROTECTING HUMAN RIGHTS AT HOME. IN THIS REGARD, IT IS SAD TO NOTE THAT THE UNITED STATES IS ONE OF THE MEMBER STATES OF THE UNITED NATIONS THAT STILL RETAINS THE DEATH PENALTY AND WHICH ALSO SHOWS NO SIGN OF STEADY PROGRESS TOWARD ITS ABOLITION. THIS IS IN CONTRAVENTION OF THE AFFIRMATION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS THAT MEMBER STATES, "IN ORDER TO GUARANTEE FULLY THE RIGHT TO LIFE, PROVIDED FOR IN ARTICLE 3 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS," SHOULD SEEK TO PROGRESSIVELY RESTRICT "THE NUMBER OF OFFENSES FOR WHICH CAPITAL PUNISHMENT MAY BE IMPOSED, WITH A VIEW TO THE DESIRABILITY OF ABOLISHING THIS PUNISHMENT IN ALL COUNTRIES."

MR. CHAIRMAN, WE FEEL THAT THE EFFECTIVE IMPLEMENTATION OF THESE PRINCIPLES IS NOT ONLY THE CLEAREST AND STRONGEST WAY TO DEMONSTRATE U.S. COMMITMENT TO THE PROTECTION OF HUMAN RIGHTS. IT IS ALSO A PROVEN WAY TO SAVE LIVES.

BEST COPY AVAILABLE

U. S. HUMAN RIGHTS POLICY

An Amnesty International U.S.A. Position Paper

U.S. human rights policy will be, and should be, one of the pressing issues debated by candidates for public office during 1986-88. It is urgent that effective U.S. actions be taken against the policies of political imprisonment, torture and killings practiced by an alarming number of governments around the world. Although it cannot endorse political parties or candidates, the United States section of Amnesty International will be working for the adoption of the following positions which it believes are essential if the United States is to fulfill its responsibility to promote and protect human rights.

1. Human rights must be given priority in United States domestic and foreign policy

This is consonant with the fundamental values upon which this country was founded and which have shaped its destiny and with its international obligations set forth in the United Nations charter and the Universal Declaration of Human Rights. It is also directly in the national interest. As the Universal Declaration states: "Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." Human rights interests cannot be separated from national security interests. Nor should human rights be viewed as an ideological weapon to be used in some cases and ignored in others. To do so weakens the protection of human rights everywhere and thereby acts directly against the U.S. national interest for a secure, stable and just world order. The universal observance of human rights is the surest guarantee of every nation's security. Moreover, U.S. support for individual human rights in a country with a repressive government, whatever that government's ideology, gains the friendship of the people of that country. On ther other hand, if the U.S. is seen as supporting oppression, it is bound to gain the long-term enmity of the people.

The priority given to human rights policy is best judged not by declarations and speeches but by the role played in all aspects of foreign policy by persons with human rights training and experience. It is essential, therefore, that there be a strong and active bureau of human rights. It is equally important that all policy makers be systematically briefed on human rights issues and that there be clear instructions that the promotion and protection of human rights is to be a major factor in all policy decisions.

2. United States strategies and programs to promote human rights at home and abroad must be governed by universality

The United States Government, like all governments, should steadfastly seek to ensure the rights of all individuals regardless of who they are or what they believe, and should hold every government, whether

BEST COPY AVAILABLE

considered friendly or unfriendly, to the same standards. These standards, reflected in the U.S. Constitution, are defined internationally by the Universal Declaration of Human Rights. This remarkable document, which the United States was instrumental in drawing up and having adopted by the United Nations, represents a hard-won consensus among nearly all nations of the world on the meaning of human rights. Any attempt to define human rights in other terms or to suggest that these standards apply more to certain countries than others, undermines that consensus and therefore threatens the worldwide protection of human rights.

With the human rights strategies and programs adopted, the basic criterion for choosing means must be effectiveness. What works in one case may not in another. For this reason, the debate over quiet diplomacy versus open denunciation is often sterile. What must be avoided is a policy of being quiet with friends while openly denouncing our enemies. When the U.S. publicly ignores violations by its friends that it condemns by its adversaries, it reduces human rights to an instrument of propaganda and generates cynicism rather than hope.

3. The United States Government must have a sustained commitment to strengthen domestic and international legislation, institutions and mechanisms concerned with human rights

For the past two decades, under a succession of administrations and by a Congress controlled by different political parties, the United States has enacted numerous laws aimed at promoting human rights here and abroad. Nothing should now be allowed to dilute legislation that promotes human rights or to weaken the administrative structures and procedures set up for its implementation. Indeed, it is critical that the purpose of this human rights legislation be realized through its effective application on the universal basis discussed above. Attempts to circumvent such legislation by ignoring or distorting information on particular countries can only signal to offending governments that the United States is not serious in its advocacy of human rights.

The United States must also play a major role in promoting human rights in international bodies. The United States has for many years been rightly critical of the tendency within the United Nations to apply human rights procedures on a selective and political basis. Any efforts to broaden the application of these procedures to more countries should be applauded. Unfortunately, the ability of the United States to correct this situation has been hampered by its own inexplicable failure to ratify the human rights treaties, in particular the International Covenants, which it was so instrumental in developing. These treaties must be ratified, and soon. Such ratification will enhance this country's capacity to give such treaties meaning by pressing for more effective enforcement mechanisms as well as their application to a wider and less selective number of countries.

BEST COPY AVAILABLE

4. The United States must use its influence and resources to combat specific human rights violations such as torture, political imprisonment and executions

a. Despite its nearly universal prohibition in domestic and international law, torture has been practiced in at least one out of every three countries within the past four years. Amnesty International has launched a new worldwide campaign to abolish torture. As part of that effort, it is calling on all governments to adopt a program aimed at the eradication of this inhuman practice from the face of the earth. Specifically, Amnesty International U.S.A. is calling on the United States Government to

-- publicaly condemn the use of torture wherever it occurs

-- ensure that allegations of torture or ill treatment within the United States will be thoroughly investigated and, where necessary, that action will be taken

-- pressure all governments to abolish those practices which allow and encourage torture, such as incommunicado or secret detention, the failure to investigate allegations of torture and to bring to justice those responsible, and the absence of programs to compensate the victims (governments of countries where torture is widely reported to be occurring should be informed that unless such steps are taken, the U.S. Government will consider it likely that torture is being condoned or encouraged)

-- conduct its own investigations of whether torture is occurring in countries where it is reported (such investigations should include, where possible, on-site visits)

-- prohibit the transfer of military, police or security equipment or expertise when it can be reasonably assumed that these transfers are being directly used in torture or related human rights abuses

-- support the use of U.S. courts to enforce international prohibitions against torture, as was done in the Filartiga case, which established the precedent that the U.S. is not a safe haven for torturers

-- assist the victims of torture, particularly the thousands who have fled areas where massive human rights violations are occurring and are seeking sanctuary in the United States (the existence of systematic torture and other human rights violations in these countries should be considered in the asylum process by the responsible authorities)

b. The policies listed above should be applied equaily in the case of related human rights violations such as "disappearances," political murders and political imprisonment. In all of these cases the United States should use its good offices to intervene on behalf of individual

BEST COPY AVAILABLE

cases. In particular, embassy personnel should be instructed and trained to attend political trials, seek access to prisoners who have "disappeared," or are being held incommunicado, and press for investigations into allegations of torture or political murder. This is not only the clearest and strongest way to demonstrate the United States' commitment to the protection of human rights. It is also a proven way to save lives.

Amnesty International has documented thousands of cases of prisoners of conscience being held around the world. These are men, women and in some cases children who have neither used nor advocated violence but who have been imprisoned because of their religious or political beliefs. In an effort to secure the release of these prisoners, the United States should use its good offices whenever possible to raise their cases with the offending government.

Amnesty International also continues to investigate a number of cases of prisoners within the U.S. who maintain that although convicted on criminal charges, the real reason for their imprisonment is political. The U.S. Government should follow all appropriate procedures to ensure a thorough review of all such cases.

c. The United States can also promote human rights abroad by demonstrating its commitment to protecting human rights at home. In this regard, it is sad to note that the United States is one of the member states of the United Nations that still retains the death penalty and which also shows no sign of steady progress towards its abolition. This is in contravention of the affirmation of the General Assembly of the United Nations that member states, "in order to guarantee fully the right to life, provided for in Article 3 of the Universal Declaration of Human Rights," should seek to progressively restrict "the number of offenses for which capital punishment may be imposed, with a view to the desirability of abolishing this punishment in all countries." It also contravenes the findings of Amnesty International that the death penalty is often used discriminatorily against racial minorities and the poor, that everywhere in capital cases the process of judgment is inherently arbitrary, nowhere has the death penalty been proved to act as a deterrent, and whatever the method of execution, acute physical and mental suffering is involved.

Execution in the United States over the past decade has been relatively rare, but this is now changing. No other country has so many persons on death row. Nothing can justify this country's debasing human rights standards through the taking of these lives and in the process inflicting cruel and inhuman treatment upon human beings. Those who have committed heinous crimes must be punished, but the punishment must reflect the values society wishes to uphold and not those it condemns. The only true protection of a civilized society is the preservation of its humane values. The calls for increased use of a punishment as cruel as it is useless must no longer be allowed to divert attention

BEST COPY AVAILABLE

away from the need for genuine solutions to the problems of violent crime. In order to protect civilized society, the death penalty must without delay be abolished in every state of the union and the government of the United States must render full support to international efforts to abolish the death penalty in every country in the world.

The United States was founded with the declaration that "all men are created equal, that they are endowed by their creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness." The battle for human rights is nothing less than the battle to make this declaration a reality for all human beings. By taking a strong stand and effective actions on behalf of human rights, the United States is not only acting in its own national interest. It is responding to the hopes of millions of men, women and children who are facing political imprisonment, torture or death because of their fight for "certain inalienable rights."

##########

BEST COPY AVAILABLE

Mr. YATRON. Last week, in a hearing before this subcommittee, Mr. Richard Schifter, the Assistant Secretary of State for Human Rights and Humanitarian Affairs, was asked how security assistance could be given to countries, such as the Philippines, Guatemala, Korea, and Pakistan, without directly violating 502B.

He stated that the course of conduct in a particular country, even though it includes violations of human rights, must rise to a certain level, which apparently none of the countries I just mentioned did.

Is the "consistent pattern" terminology in section 502B being used to preclude the implementation of this measure? What can be done to ensure that the legal intent of this law is not abandoned?

Whoever would like to comment; Ms. Burkhalter, would you care to begin?

Ms. BURKHALTER. I know of your efforts, Mr. Yatron, to remove the phrase "consistent" from the law when it pertained to section 701 with the International Development Banks.

I think that was a useful effort, but, in terms of security assistance, I think it may be barking up the wrong tree, and the reason I say that is because, if the Congress expects the executive branch not to provide aid to allied countries when it, itself—when the Congress itself—authorizes and appropriates the money for those countries, we should not be surprised, then, when the aid then goes forward.

And I think, while I do not mean to speak frivolously about the law—the law is on the books—I think that it only has as much value as the Congress itself attributes to it.

Thus, in cases where the Congress got really serious about a particular country, and wants to end aid, or reduce aid, or condition aid, they will do that on a country specific basis, and I think that is really the answer to putting some teeth into it, rather than fiddling with the actual law.

There is nothing wrong with the actual legislation. I think it is only as serious as Congress makes it.

I also think that since 502B includes a waiver for countries where there are overriding security interests, the Congress should ask the Reagan administration to make those waivers explicit, but still expect the Reagan administration to acknowledge gross abuses when they occur.

Mr. YATRON. Thank you, Ms. Burkhalter.

Would any of the other witnesses care to comment?

Ms. Orentlicher, would you like to follow up?

Ms. ORENTLICHER. I would like to associate myself with Ms. Burkhalter's comments.

I agree with her that in recent years we have learned that a more effective way to improve the human rights situation in countries that are gross violators is to fashion a country-specific law that deals with particular concrete goals.

I think one of the best examples of this was the legislation introduced a couple of years ago with respect to El Salvador that withheld a certain percentage of military aid authorized for that year pending a verdict in the trial of soldiers charged in connection with the murder of four U.S. churchwomen.

BEST COPY AVAILABLE

That legislation, I think, was an important breakthrough in U.S. human rights policy. It put a tangible price tag on a concrete, realizable goal, and the results were also concrete, and were realized. I think that sort of development should be the Congress lead in trying to develop similarly effective legislative responses to serious situations.

Mr. YATRON. Thank you.

Ms. Gaer.

Ms. GAER. I recall that the original draft of amendment 502B used the exact same phraseology as is used in Resolution 1503 of the United Nations, which provided for the first independent way of identifying countries that engaged in a consistent pattern of gross abuse, or gross violations.

And I would think that the choice of the word, "consistent" both in the United Nations resolution and in the U.S. legislation is an important word, first of all.

Second of all, if you were to remove that word from the legislation, you would probably have the same arguments, nonetheless, about whether or not a country engages in the abuses per se, and second, whether there are overriding security considerations, as Ms. Burkhalter suggested.

Mr. YATRON. I am inclined to agree with you.

Would you recommend that the word "consistent" be dropped?

Ms. GAER. No, I would not. I recommend that it be retained.

And I would also recommend, however, in this instance, as in other instances, that the administration's use of words like "consistent," "progress," "accomplishment," et cetera, to meet its own policy goals, be given great scrutiny; and, in fact, that they be held to the word "consistent."

Mr. YATRON. Thank you.

Mr. Goering.

Mr. GOERING. Yes, sir.

Although Amnesty International does not, in most circumstances, take a position on the legitimacy of transfers—military security or police transfers—between this Government and an offending country, we would strongly recommend that in the context of the debates about aid to serious human rights violators, that the human rights information be given a full hearing.

In addition, because legislation links human rights violations and multilateral or bilateral assistance, if it is Congress' decision to go ahead and recommend that the aid be given to consistent violators, that you also require steps that the government, the receiving government should take, in order to deal with the abuses that are occurring in that country, and also the steps the U.S. Government is taking to stop human rights abuses in that country.

Mr. YATRON. Thank you. Is the administration doing enough, in your estimation, to implement Public Law 98-447, legislation opposing the practice of torture?

Ms. Orentlicher.

Ms. ORENTLICHER. First of all, the answer is no; they are not doing enough. In a number of countries, the administration is a forceful advocate for human rights, but there is no consistent policy.

BEST COPY AVAILABLE

I think an important point that your question suggests is that one valuable role Congress could play is that of scrutinizing more carefully the role of U.S. Embassies in promoting human rights abroad. In countries throughout the world where human rights violations are a serious problem, some Embassies play a constructive role; others play virtually no role; and some play a destructive role.

There is really no consistent pattern. One point that is clear is that the staff of U.S. Embassies, when they do choose to act, can often play an invaluable role in easing abuses of people whose rights are being violated by the governments in which the Embassies are located.

I think that Congress could appropriately pay more attention to that process and urge greater consistency and attention to those problems.

And I think that Embassy staff can really play a very constructive role in reducing torture and other serious violations, if they pay attention to them.

Mr. YATRON. Thank you.

Would anyone else care to comment? Mr. Goering, would you care to say something, sir?

Mr. GOERING. Yes.

Amnesty International was encouraged that the congressional resolution against torture was passed about 1½ years ago, and about the steps that were outlined in that resolution, specifically among others, giving instructions to Ambassadors in the violating countries. The steps that those Ambassadors should be taking in order to try to deal with human rights violations there from regularly examining and reporting on the structures that allow torture to intervening on behalf of individual victims.

Some reporting has come back from the field, and we have noted that in this year's State Department Country Reports, for exampie, there was specific reporting in some countries on these structures; for example, on limits of incommunicado detention and secret detention centers—the conditions, preconditions, if you will, which allow for torture to take place. This was specified in the congressional resolution against torture.

And we are happy to note that at least in some instances, there has been some effort to comply with the law. At the same time, it is painfully aware to us, too often, that in many situations around the world the torture still continues, on a very frequent basis, and so, there are obviously additional steps, in some cases elementary steps such as accurate reporting which needs to be done, the Ambassadors in these countries could pursue more vigorously these instances.

Mr. YATRON. Yes; I think that the administration has to do a better job in recording what they are doing in terms of making improvements in the implementation of this legislation so that the Congress is aware of it; I think they have to improve that portion.

Ms. Burkhalter, would you like to comment?

Ms. BURKHALTER. If I could just say a word about some of the Helsinki countries. There are some excellent Ambassadors in the East bloc countries. The Ambassador to East Germany has been excellent. There have been a number of them.

BEST COPY AVAILABLE

The real question is how much can embassies in hostile countries do for people?

If I could just come up with an alternate suggestion. Sometimes other policy channels are better than the embassies themselves, where people cannot be affiliated with the United States.

If the United States Ambassador to Chile visits a Chilean prisoner, as Embassy staff in Chile are now doing, that does not jeopardize them further; whereas in the East bloc this would not be the case, and other things would have to happen.

I have been doing some work for the Helsinki Watch recently on Poland, and we are very concerned about the deteriorating situation for political prisoners there.

There are about 200 of them, and we just received some very depressing information from both the underground and the official Communist Party, both of which have put out reports about Polish prison conditions.

And, interestingly, the reports jive, in terms of their description of prison conditions—both of them say they are awful; and I could make that available to you if you are interested.

But I cannot imagine how the United States Embassy in Poland could help on that.

However, our diplomats here in Washington could help, and I think particularly, the U.S. Representative to the International Monetary Fund could help.

It is my understanding that Poland will be admitted; I say something about this in my statement as well—will be admitted to the Fund within the next month; and while the United States formally dropped its objections to Poland's participation in the Fund about a year ago, because of some human rights improvements at the time, the human rights improvements have proved to be basically illusory, and this would be a good time for some strong statements, from either the U.S. Representative to the Fund, or our spokespeople here in Washington.

But I think it is a key time to be raising some of these issues, because of the—because of Poland's interest in joining the Fund, and I would think that we would also want to be monitoring loans as they come down the pike as well.

Mr. YATRON. Thank you, Ms. Burkhalter.

Anyone else, or should we go on to another question? Would you care to say something, Ms. Gaer? I do not want to cut you out.

Ms. GAER. No, no. Nothing at all.

Mr. YATRON. All right.

The Country Reports maintain that 55 percent of the political killings were committed by guerrillas in El Salvador, based on local press and other sources. Do you consider this figure to be relatively accurate?

Ms. BURKHALTER. No; I do not think that figure is accurate. I do not have a percentage of what number of people killed in El Salvador were killed by the guerrillas.

It is certainly the case, as the Americas Watch has reported in each of its reports, that the guerrillas are guilty of killing civilians. And we have investigated a couple of instances where these things take place.

BEST COPY AVAILABLE

Certainly we are all familiar with the Zona Rosa killings when the Salvadoran guerrillas targeted a large group of civilians in a Salvadoran restaurant, and among them four U.S. Marine guards who were unarmed at the time, thus making them inappropriate military targets.

The figure 55 percent, however, I think should not be taken too seriously, just as the reporting in the Salvadoran newspapers should not be taken too seriously.

There is not an opposition press in El Salvador. There is not a Christian Democratic press. All there is sort of ultra-rightwing press in El Salvador. And they get their statistics from the army itself, which is not particularly forthcoming about its own abuses, and from local magistrates. But the press reporting is not a reliable way to collect statistics or to collect data in any country, it occurs to me. And it is particularly unreliable in a country in which it is not safe to publish information which might appear detrimental to the Government and the armed services.

Mr. YATRON. Are you familiar with the Bureau's formula in tabulating death counts? If so, do you feel that it is sound?

Ms. BURKHALTER. The Embassy's formula in El Salvador?

Mr. YATRON. Yes.

Ms. BURKHALTER. Well, they rely exclusively on the press, it is my understanding. In the last couple of human rights documents that have come up we have seen the charts and the numbers. And as a matter of fact, they have relied on press statistics for their compilations of gross violations of human rights throughout the last 5 years. And we have never thought that was a particularly good way to document human rights abuses in Salvador or any other country.

Mr. YATRON. Thank you.

Would anyone else care to comment? Mr. Goering.

Mr. GOERING. Yes.

While I also, Amnesty International that is, would also not have a precise percentage on the killings committed by nongovernmental groups, opposition groups.

After studying documents, reports from investigations in the field, contacts with human rights groups, and a whole range of other sources, our information has shown that the vast majority of killings have been committed by Government military and security forces or groups or squads in some way tied to the Government. So while at the same time Amnesty notes there have been abuses and continue to be abuses carried out by opposition groups, and these acts should be condemned the same way they should be when a Government commits them, but the vast majority of the killings, according to our analysis, has been by Government forces.

Mr. YATRON. Thank you.

I now call my colleague, Mr. Chris Smith, the gentleman from New Jersey.

Mr. SMITH of New Jersey. Thank you, Mr. Chairman. And I want to welcome the panel. I appreciate their expert testimony.

I have a number of questions, Mr. Chairman. The first I would like to pose to Ms. Burkhalter, and it deals with the issue of Romania.

BEST COPY AVAILABLE

As you probably know, I have introduced legislation, H.R. 3599, which would suspend MFN [most favored nation] status for a period of 6 months. Companion legislation has been introduced over on the Senate side by Senator Paul Trible. The Senate is holding hearings, as a matter of fact, later on today on that very issue.

Is it your opinion, Ms. Burkhalter, that this kind of device—you did indicate before that country-specific responses were probably the most likely to produce fruit and to yield result. What is your view on this legislation?

Ms. BURKHALTER. I am aware of your legislation, sir. You mentioned the Senate hearings on Romania. My boss, Jeri Labor, the head of the Helsinki Watch, is over there testifying right now.

Mr. SMITH of New Jersey. I am testifying right after her.

Ms. BURKHALTER. Oh, are you? I am aware of your legislation. There are a number of other bills that are in the hopper. I think Mr. Lantos is the sponsor of another bill on Romania.

I think that all of the attention and that the various legislative initiatives are extremely useful. I would not come out with a preference for one over the other. The Helsinki Watch did for the first time this year take a position against MFN for Romania, we have not done so in the past, largely because under Jackson-Vanik, as of course your are aware——

Mr. SMITH of New Jersey. Yes.

Ms. BURKHALTER [continuing]. The one issue that Jackson-Vanik does deal with, the Romanians have been pretty good on. We raised some quarrels with them, but generally there are a large number of Romanians who are getting their exit visas. And the emigration issue, per se, I do not think can be used to exclude Romania.

The other towering human rights problems in that country, however, have persuaded the Helsinki Watch to for the first time take a position against it.

One of the aspects of your bill, Mr. Smith, that I find particularly useful is the notion that it would be suspended pending a report. I think that if that, if you can do that legally—and I am not a lawyer and I am not familiar so much with the trade agreements and whether it would be even possible were your legislation to pass to suspend MFN and then get it back. If that can be done, I think it is a creative way to put the heat on without losing the pressure mechanism altogether. Because I think what most of us are worried about is that if MFN is junked for Romania then we have no handle at all.

But at the same time we are no longer willing to lend ourself to, you know, to the notion that Romania is particularly deserving, because they are not. And so ways to get at it halfway by requiring sort of steps along the way I think might be the most helpful indeed.

Mr. SMITH of New Jersey. Your comments are precisely the background and the rationale that we have utilized in proposing the bill. There is substance in the fear that to immediately halt MFN could result in a worsened situation in Romania. Suspension is, as you put it, a creative way to deal with the situation and constructively move the Romanians to improve their human rights record.

In looking through some of the literature, perhaps I did not have time to go through all of it, but I noticed at least in the document

BEST COPY AVAILABLE

presented by the Lawyers Committee for Human Rights, that there is no real mention of China. I could have overlooked it.

However, I was wondering if anyone on the panel would like to address the issue that has received considerable attention in this subcommittee, by the Asian and Pacific Affairs Subcommittee, the full Foreign Affairs Committee, and of course, the House and the Senate, relative to the Chinese one child per couple policy adopted in 1979? Regrettably, the Chinese officials have adopted—and their is a considerable body of evidence to substantiate this—a coercive birth control program which limits women to one child. And unless that woman obtains a birth quota certificate, she is unable to go ahead and have either the first baby or any subsequent children.

Evidence clearly shows that this policy has led to widespread use of coercive abortion. In a 5-year period there were some 54 million abortions performed in China. There has been an alarming rise in the number of infanticide cases. Some estimates put it as high as 200–300 thousand children per year, mostly infant girls.

Recently we heard testimony from Judith Bannister, Center for International Research Division of the U.S. Census Bureau, regarding China, and she said that nothing has changed, that the situation there is still coercive, involuntary. Women have no right of redress. They cannot appeal the decision. They are told when and if they can have children. And if they have, again, a child outside the birth quota, that child has to be killed.

I was wondering if your organizations have been able to assemble any information which could either substantiate or debunk the material that we have received from the Washington Post, the State Department, and a myriad of other sources? Ms. Burkhalter?

Ms. BURKHALTER. Mr. Smith, the newly formed Asia Watch has not done a full-scale mission to China yet. We have published two reports, on the P.R.C.—but they related exclusively to freedom of expression and do not look at that issue at all.

Certainly it is a human rights issue. And anyone working on a human rights report on China must address that. We hope to in the coming year. But I do not have any information to provide you at this time.

Mr. SMITH of New Jersey. OK. Anybody else have any information on that? I would strongly urge you, and I appreciate the fact that you are going to be or are in the process of formulating this information investigation.

Ms. BURKHALTER. I hope so. I do not want to make any rash promises. We do not have a trip to China planned right at this moment. But it is a new committee. And certainly we want to be working on China.

I might also direct your attention, sir, because of your particular interest in this area, there are also reports about a birth control program that is being implemented on East Timor in Indonesia, which as a country, as you are aware, has grave human rights problems and was also seriously depopulated over the last—in the years since the invasion in 1975.

And the Timorese bishop, for example, has spoken out against the birth control program that the Indonesian Government is employing there.

BEST COPY AVAILABLE

And we would be particularly concerned about the right of consent. And, of course, that is what you are talking about with respect——

Mr. SMITH of New Jersey. Right.

Ms. BURKHALTER [continuing]. To China as well.

And I would be eager to talk with you at some further point about that issue, too.

Mr. SMITH of New Jersey. I appreciate that. Being fifth of the world's population, you know, we are obviously very concerned. And I would like to meet with you sometime soon thereafter.

Ms. Gaer.

Ms. GAER. I just wanted to——

Mr. SMITH of New Jersey. Your microphone.

Ms. GAER. Is it not on? OK, I will keep talking.

I wanted to draw attention, in the context of your interest in the forced sterilization program in China, to the contrast in the other country you were just speaking about, which is Romania. And that is, the situation is quite the reverse in Romania, where women have to undergo forced gynecological examinations as part of a pronatalist policy that exists. It is apparently equally coercive, though with less severe results for the individual in some of the most demonstrable instances.

I just wanted to draw your attention to that.

Mr. SMITH of New Jersey. You know, whether a nation has an emphasis on either population control or a procreation, and I think Ms. Burkhalter hit the nail right on the head—we are concerned about the issue of consent and the fact that there is not——

Ms. GAER. Well, I think there are quite a few people of the female gender worldwide who would find forced gynecological examination as a requirement——

Mr. SMITH of New Jersey. I am agreeing.

Ms. GAER [continuing]. To remain on one's job——

Mr. SMITH of New Jersey. I am agreeing.

Ms. GAER [continuing]. To be pretty coercive.

Mr. SMITH of New Jersey. And I am agreeing with that.

Ms. GAER. And intrusive.

Mr. SMITH of New Jersey. Obviously.

I just got back from a trip to Southeast Asia as part of a POW/MIA mission. While there we met with some leaders in Hanoi. And, Mr. Goering, I read the Amnesty International report last year, I believe it was published last year, on torture. And we heard some very disconcerting statements by some of our people within our Embassy and elsewhere about torture within the reeducation camps, euphemistically called reeducation camps, concentration camps housing some 10,000-odd South Vietnamese people who refuse to be reeducated.

I was wondering if you have any information on their status in these camps, Kampuchea and elsewhere, but specifically in Vietnam?

Mr. GOERING. Yes. In fact our organization has reported extensively on the reeducation camps in Vietnam and the thousands of persons that have been held in these camps for a large number of years now. This is a phenomenon that continues to concern our or-

BEST COPY AVAILABLE

ganization a great deal because we consider many of them to be prisoners of conscience.

We receive information regularly from many sources inside the country as well as out—about the situation and continue to be gravely concerned. We have an ongoing pressure program with the Government. We bring our concerns on a regular basis to the Government of Vietnam about the situation, our concern not only with respect to the large numbers of persons who continue to be held in these camps but also the conditions within the camps as well.

Mr. SMITH of New Jersey. Is part of your source for these reports refugees who've made it out of the camps? Is that where you are getting your information?

Mr. GOERING. Yes. There is a large number of reports that make their way to Amnesty International. And refugees are certainly one of those sources and an important source. But we also receive a lot of information from many other sources. Some of it is received and some is actively sought. And some is made public.

Mr. SMITH of New Jersey. Can I just urge you in your representations to the Government to express to them that we are willing to accept these people. A couple of years back, Foreign Minister Tok told a visiting delegation that if we want those people who are in the reeducation camps we can have them. Then he turned around a few years later and reversed himself and said they are war criminals and they have to remain within those camps.

If another source like your organization were to come in and make a representation that the United States will take these people, and I just urge your organization, because you do have a great deal of credibility. I think we might be able to help some of those in Vietnam.

Yes?

Ms. BURKHALTER. If I could comment on that, Mr. Smith, I would also urge, particularly the members of your delegation, to raise this with the administration. It is my understanding that the negotiations on this matter have broken down on both sides. I am sure you know more about this than I do—but it is my understanding that the Vietnamese made the offer in 1982, and the United States did not formally respond until 2 years later. And then the Vietnamese turned around.

I think that, particularly because there seemed to be something of a breakthrough on the MIA issue with your own delegation, this might be a very fertile time to see some movement on the reeducation issue as well. And it would just be a real triumph for human rights if some of those people could get sprung.

Mr. SMITH. Excellent point. And if some of the blame lies with us in not acting in an expeditious matter we certainly should redress that and move on it.

Mr. Goering, as part of your investigations, have you come across or has your organization come across any information about POW's, U.S. POW's? If so, how do you address the issue generally, not just with regards to our own war with Vietnam, but other wars, when people are held past the signing of treaties?

Mr. GOERING. Yes, that is a complex area for Amnesty International to enter. The issue of what precisely our role should be in and after situations of armed strife or internal conflict is a difficult

BEST COPY AVAILABLE

one for us to address. Concerns are relevant in time of international and internal armed conflict as well as in time of peace. The only restrictions, besides the mandate, are the availability of valiable information and considerations of effectivess. According to Amnesty policy, in international armed conflict we cannot adopt POW's until after the cessation of hostilities. And after a war is over, it is difficult to determine often that individual POW's had neither used or advocated violance. If we could establish that some POW's had not, we could take up their cases. We would else condemn the torture or execution of any prisoner or captive whether carried out by an irregular entity or an army of a government.

With respect to missing in action, Amnesty International has received some information over the past few years. We have received some, information which has also been made available to and reported in the press and to this Government, but we have not been able to conclude anything conclusively with respect to that.

Now, with the most recent reports that have surfaced, that information will be studied and analyzed very closely by our research team on Vietnam.

Mr. SMITH. Perhaps POW's, particularly past the point of the signing of an armistice or a treaty, could be defined under your definition as a political prisoner.

One final question, if I can, Mr. Chairman. And I just throw this out as a suggestion, if it has not already been done. I serve as a commissioner on the Helsinki Commission. Over my last 4 years serving on that commission I have come to the conclusion that it is a very, very worthwhile process. It has its downside in terms of implementation, but it at least raises the issues and enables us to keep the pressure on, if you will, those countries who abuse fundamental human rights policies.

Has any thought ever been given to putting together an Asian Helsinki Commission, you know, bringing together the Asian nations to form a federation of states that would try to uphold at least a standard of human rights, a minimum standard? Yes, Ms. Burkhalter?

Ms. BURKHALTER. I am not, I am not aware of anything even remotely comparable to the Helsinki process. Some of my colleagues at the table are more familiar with Asian issues than I am.

I think that there are certainly Asian human rights monitors in many of those countries on a local level. But I am not aware of any government-to-government sort of counterpart.

It is a great idea.

Mr. SMITH. Perhaps we could from this day on try to push to configure such a thing.

Yes, Mr. Goering? Oh, I am sorry.

Ms. ORENTLICHER. I am aware that there have been some efforts in recent years among the ASEAN nations for local human rights monitors from each of those countries to form some sort of collective institute that would address human rights concerns on a regional level. It would not be, obviously, a Helsinki commission.

As far as I know, those efforts have never really gotten too much steam, principally because the participants have been preoccupied with dealing with problems in their own countries and have not really been able to devote substantial time to the collective effort.

BEST COPY AVAILABLE

I would be happy to make further inquiries and try to find out more about the status of those efforts and report on it.

Mr. SMITH. Ms. Gaer?

Ms. GAER. Over the last decade or so, I believe there have been two U.N. conferences of all the nations in Asia with a view toward forming an Asian regional human rights organization or an Asian organization like the Organization of American States or the Organization of Africa Unity's human rights treaty.

And they have not gotten very far. Such mechanisms have not been accepted with very much enthusiasm by any of the nations involved. And in fact, the ball has shifted to a certain extent in that area to the nongovernmental organizations, even to groups that previously had a business orientation, like Lawasia, which was originally an economic organization of lawyers in Asia, but which has now gotten into the human rights business. But that is purely private. And the government-to-government efforts have been very weak.

What is more, in my review of countries that have signed international covenants and that are party to the U.N. agreements and have an interest in human rights, it is sad to say that among those who have signed those covenants or shown any interest, the Asian nations really come in very, very low as a group.

So you would probably have to find some other way to get them together. You do not have the kind of political divide that you had between East and West and led to the Helsinki process. You do not have having a European security agreement being a major concern of one of the powers, as it was for the Soviet Union since 1955. So you have not quite got the impetus for that from inside.

Mr. SMITH. Thank you very much.

Mr. YATRON. Thank you, Mr. Smith.

The gentleman from California, Mr. Lantos.

Mr. LANTOS. Thank you very much, Mr. Chairman.

Let me first pay public tribute to your leadership in the human rights field which has been outstanding and steady, and we are all grateful for it.

I have one specific question of Ms. Burkhalter and then I would like to ask a question of all members of the panel.

In your testimony, you call for stronger human rights emphasis with respect to Poland on the part of our Government. I wonder if you would care to elaborate on that?

Ms. BURKHALTER. I mentioned a little bit more about my remarks when you—I think before you entered the hearing room. But if you do not mind I will go back over that ground.

The Helsinki Watch has the good fortune to have a woman from Poland on staff with us up in New York. And so she has been very closely involved with the human rights movement in Poland and gets regular communications from them.

We have a lot of information which, unfortunately, generally is not seen in the U.S. press. But there is a great deal of information about a serious deterioration in human rights conditions, particularly with respect to the issue of political prisoners and conditions in Polish prisons.

The interesting thing about U.S. relations with Poland is that, as you are very familiar with I am sure, the United States dropped

some of the sanctions that were imposed after martial law explicitly because of concessions on human rights. The June 1984 amnesty in which most of the political prisoners were released, and then in particular the release in December 1984 of Bogdan Lis, the great Solidarity underground leader, were, I think, a response to direct U.S. pressure. And then shortly thereafter we dropped our objections to Polish participation in the International Monetary Fund and a number of other concessions retaining sanctions on credits and a couple of other issues that are important to the Poles.

But the really terrible thing is that now that we dropped our opposition to participation in the Fund and Poland will now be admitted as a member in good standing, almost all of the people that were in jail at the time of our concerns are back in jail, including Bogdan Lis and Adam Michnik and Wladyslaw Frasyniuk and a host of Solidarity leaders. Bielicki was just picked up a couple of months ago. Not to mention the less well known figures who run the printing presses in the opposition underground publishing movement. Well, you know the story. Lots of these people are in jail.

And I can almost say that some of the prison conditions are so terrible as to themselves constitute inhumane treatment at least, if not torture. And I have some documents that we recently received from Poland describing Polish conditions in Polish prisons that are really quite terrible.

But I think that because Poland is entering the Fund we should use the occasion to try to renew pressure and certainly make it clear that any further response on the Poland economic sanctions issues must have—there must be some lasting human rights improvements.

Having said that, Mr. Lantos, I am reluctant to go much farther in the area of sanctions. As you know, there is no real consensus within the Polish Solidarity movement itself. Many Solidarity people are not at all in favor of U.S. sanctions because it makes Poland more dependent on the U.S.S.R. And so some of our best friends and human rights leaders are themselves not calling for U.S. sanctions against their country. And the Helsinki Watch is uncomfortable doing so on their behalf, if you understand me.

I do think there are abundant opportunities, however, particularly in Poland because of the desire to have the trade with the West and the participation in the international economic organizations. We really have an opportunity here. And I would like to see us use it. Certainly our diplomats must have the wit to come up with ways to get some action on some of these things.

Mr. LANTOS. All of the private information I get from Poland parallels yours. And I would strongly agree with your conclusion that we should highlight this upsurge of human rights violations that we have seen lately in Poland.

I have a general question that I would be grateful if the panel could address. It stems from the media handling of the release of Mr. Shcharansky.

As you know, Congressman Gilman and I had a lengthy discussion at a crucial stage in East Germany with Wolfang Vogel, the East Germany attorney who handled the exchange cases. We saw him in mid-January. And when finally the release of Mr. Shchar-

BEST COPY AVAILABLE

ansky took place the American press, and I have in mind, for instance, The Washington Post which had a first page story saying I believe the headline was "Triumph of Private Diplomacy." And the message of that article and many similar articles was that Shcharansky was released basically because of quiet, behind-the-scenes negotiations and discussion.

It seems to me that probably no individual has had as much public diplomacy and publicity and mass events and the involvement of groups all across this globe on his behalf than has Mr. Shcharansky. And his very courageous wife Avital became an international figure as she moved from country to country and continent to continent in a very public manner.

So my question really is: Is it your impression that the release was the result of quiet behind-the-scenes negotiation, or was it really a combination of public pressure and private negotiation? And on a broader scale, how do you appraise now the relative importance of private moves and public moves in bringing about improvements in human rights conditions?

Mr. Goering, would you like to begin?

Mr. GOERING. Thank you, Mr. Lantos.

The question of why governments release prisoners is an extremely complicated one. Last year Amnesty International learned of the release of approximately 5,000 prisoners whose cases we were working on—individual prisoners of conscience or likely prisoners of conscience. And exactly why governments release those people is often difficult to know. We often do not know.

Sometimes it may be the result of an amnesty. Sometimes it may be the expiration of a sentence. Sometimes an anniversary of the king's birthday. There are so many different factors that enter into governments' decisions to release people. But often, I think, and possibly most importantly, it is the pressure, constant pressure from concerned individuals, motivated public opinion, the work of human rights organizations, such as those represented here. I think these pressures build upon each other and combine into a force governments sometimes cannot ignore.

In the case of the Anatoly Shcharansky release, it is an interesting question. I am not sure what the answer would be. At the same time, I think that the many tireless activities over the years of Mr. Shcharansky's wife contributed a great deal toward bringing the case to public attention, to the attention of other human rights groups, who then, maybe in part because of her but also because the case represented a larger political injustice. This force fed into a growing stream which then became rushing waters. And it is difficult to know at which point our Government actively started its negotiations behind the scenes with Soviet authorities.

But to my mind it is difficult to separate what went on publicly and overtly from that which went on privately. Had there not been the pressure from his wife and from human rights groups and from Members of Congress like the committee members here, like yourself, Mr. Lantos, it is difficult to know what the impact and ultimate action would have been or would not have been on the U.S. Government. Our organization brings hundreds of such cases to the attention of this government and unfortunately not many are given much attention.

BEST COPY AVAILABLE

Mr. LANTOS. Ms. Burkhalter.

Ms. BURKHALTER. I do not have an answer, Mr. Lantos, so I will use my question—my answer time to ask you what do you think? You were there.

Mr. LANTOS. There is no doubt in my mind—and I am really much more interested in your view than in my own—there is no doubt in my mind that without enormous steady public pressure not a tiny fraction of our victories would be taking place. And while I do not by any means minimize the importance and occasionally even the crucial character of private diplomacy, I think the mainstream that carries the movement is a public posture which makes it uncomfortable and awkward and embarassing and beyond a certain point simply no longer cost effective for countries to engage in human rights abuses of one type or another.

There is no doubt in my mind that, for instance, the credit that my distinguished colleague Congressman Gilman and I were given in connection with the Shcharansky release case was dramatically overstated because we did have private meetings at the crucial time with the key people. And the enormous work of Avital Shcharansky and thousands of volunteers across the globe was dramatically understated.

We would not have had the very productive session with Mr. Vogel in East Germany had it not been preceded by years of very public pressure. My feeling is that what happened in Haiti is a very good example of public pressure, again. And I would go beyond that, just as the change of government in the Philippines came about, (A) because of the pressure of the Philippine people, but, (B) because of congressional pressure, with the administration coming along at a late stage, somewhat reluctantly—and I could draw an almost clear analogy to Haiti there. I think congressional demands for putting an end to the bloody tyranny preceded administration moves by quite a while.

It seems to me that the whole human rights movement must depend upon both public and congressional pressure. And it is a very unusual administration which will lead the charge in the human rights field, because the administration, understandably to some extent, has to deal with governments and countries while we do not have such an obligation. Therefore, we are more free to tell the truth.

But the fact that we are more free to tell the truth must be recognized. And the fact that often administrations have to fuzz up the picture because they really do not know which way things will evolve. And if they evolve the other way they do not want to create enemies. It is just a fact of life.

I could not think of a more dramatic recent example of this than the even-handed criticism by the administration of the Philippine election. That to me is a case that is going to go down in the history books, because if there ever was a case of a government trying to steal the elections in a blatant and complex and brutal fashion it was the Marcos regime. Yet, at the highest level we said a plague on both of your houses. And we really do not know who did more wrong. Well, everybody else did.

Finally the administration came around to the congressional point of view.

BEST COPY AVAILABLE

I think it is a very important issue that we are dealing with, both with respect to public pressure and congressional pressure as juxtaposed to administration moves. Because as we are conducting this hearing, on the floor of the House we have a debate on the Nuclear Test Ban Treaty, and the argument is being used that Congress should not interfere because it is not our job to become involved with arms control when, in point of fact, the whole arms control debate has been thrust to center stage by both public and congressional pressure.

So my view is, I am afraid, very clear: We need public pressure. And I think public pressure is getting far too little credit and private diplomacy is getting far too much credit.

How about, how about the rest of our panel? Ms. Gaer.

Ms. GAER. It is hard to follow such an eloquent statement of what I think we all know and admire in the work of the Congress, your own work, and of the groups that are here and not here.

I think that you are quite right, though, to draw attention to the fascination of press with the private aspect—"privatization" of the Shcharansky release. Simply no question that the public pressure, that Avital Shcharansky's extraordinary devotion——

Mr. LANTOS. That is right.

Ms. GAER [continuing]. The extraordinary political and moral pressure brought by the Jewish organizations in this country, by the human rights organizations around the world on the Shcharansky case made him a symbol and a symbol who then could be bargained for.

The danger, it seems to me, of overemphasizing the private side of the release is to act as if that is something unusual. Once the pressure is great enough, it is quite common for governments to negotiate privately with another government for some spy exchange or prisoner release or a trade agreement. And just because the press was not in on it they think this was something unusual and something new.

What worries me about that tendency is there are a lot of people who because of the deterioration in superpower relations over the last—I'll be fair—say 8 years feel that raising the human rights question with the U.S.S.R. is counterproductive. It is counterproductive, they say, not only for superpower relationships dealing with arms control or other elements in superpower agreements, but it is counterproductive for the prisoners and it is counterproductive for the dissidents in the Soviet Union.

That I believe is false. And I believe that, to the extent that the fascination of press with the quiet side of the Shcharansky case tends to give credence to that kind of argument, we should all make a point of objecting to it and of seeing that we do not slacken our efforts because of the extraordinary frustration of dealing with prisoner situations in the Soviet Union.

Mr. LANTOS. Thank you very much.

Ms. Orentlicher.

Ms. ORENTLICHER. Thank you.

I am tempted to say you took the words out of my mouth but I could not have put it as eloquently as you did. You did take the thoughts right out of my head. I agree completely with everything you said.

BEST COPY AVAILABLE

One point I would add to that is that while the human rights community has been quite critical of the Reagan administration for its reticence to resort to public diplomacy with strategic allies of the United States, I want to clarify that the human rights community in general believes that quiet diplomacy can serve a useful function. We engage in it ourselves quite frequently.

Our concern is that quiet diplomacy in general cannot be effective unless it is understood by the government involved that there is further recourse to public diplomacy and sanctions that will have a more significant international repercussion if the private efforts are unavailing.

One other point I would add to your comments pertaining to the Philippines. I think that one point which that particular situation brought out is that there are times when it is necessary for the head of state, himself, to take action. Mounting pressure from Congress was key to the ultimate culmination of developments in the Philippines. But those developments reached a point where a statement from the highest authority in our administration was necessary to cap efforts of the Congress. And it proved necessary for Congress to mount pressure for the President to do that.

I think in that case public efforts on both parts were necessary, but in particular, the efforts of Congress were necessary in order to elicit the necessary response from the President.

Mr. LANTOS. Yes; I fully agree with you.

Are you single-handed responsible for General Ramos switching sides? Or do you want to share that credit with some others?

Ms. ORENTLICHER. I will not dispute that rumor.

Mr. LANTOS. Thank you, Mr. Chairman.

Mr. YATRON. Thank you very much, Mr. Lantos.

I would like to thank all of the witnesses for taking time out of their busy schedules to be here with us today. Your recommendations and your observations will be very helpful to the subcommittee as we continue our oversight of U.S. human rights policy.

And as always you are always welcome. We are happy to see you here.

The subcommittee stands adjourned till the call of the Chair.

Thank you very much.

[Whereupon, at 3:44 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

BEST COPY AVAILABLE

BLANK PAGE

APPENDIX

Statement by Leonard R. Sussman, Executive Director of Freedom House, Entitled "U.S. Human Rights Policy After the Philippines"

The demise of authoritarian regimes in the Philippines and Haiti provides a significant message for the policies of the United States where issues of human rights converge on important geopolitical concerns.

In the mid-1970s it was assumed by American officials that their repeated public pressure on foreign violators of human rights could unseat "friendly" authoritarian rulers. In the first half of the 1980s it was believed that "quiet diplomacy" was the preferable method, and public appeals would only be exploited as mea culpa by Marxist adversaries of America.

Freedom House has long believed that a combination of public appeals and quiet diplomacy, both deftly used in proper proportions and in timely fashion, was the most appropriate American challenge to human rights violators abroad. We did not believe that America could remake the world in our image, or even as pictured in the Universal Declaration of Human Rights. But, we believe, Americans are committed by tradition and their own constitutional system to support the institutionalization of democratic forms where they do not now exist, and strengthen them where they have taken root.

The United States demonstrated in its latter-day relationships with the departing regimes and the peoples of the Philippines and Haiti that this nation could act with clarity, speed and compassion---and significantly assist the turn toward democracy in both places. The U.S. used both private diplomacy and public appeals mingled with appropriate restraint, to place America on the side of those who would give democracy a chance.

By so doing we have not guaranteed the future of democracy in either country. Authoritarian social and political patterns of generations cannot be quickly replaced by democratic forms. The military structures in both countries provide immediate possibilities for stability, but do not automatically guarantee the civilianizing of either society. Difficult though it is to fashion a democratic system of governance, it is still harder to democratize a traditional

BEST COPY AVAILABLE

social structure. The new regimes are likely to include members of the old oligarchies. They, along with all citizens, will be expected to accept democratic restraints on their power. American policy will be watched to discover whether it consistently avoids supporting undemocratic forms and individuals.

American policy, then, should build upon its clear and compassionate recent actions. Consistency is not always easy for a major power. American policy-makers, however, can take satisfaction from the success of their recent efforts. Despite several momentary pauses, the main thrust of the decisions to support democratization moved steadily and effectively ahead. Some nine months before the regime's collapse in the Philippines, and weeks before the changeover in Haiti, the drama moved to its conclusion. The important lesson is clear: authoritarian regimes of the political right (1) can be removed with minimal bloodshed and (2) can give way to democratic rather than totalitarian opportunities.

There is still no record of a Marxist state being set on the democratic path by bloodless methods. Indeed, the only reversal so far is Grenada, and that required military action to displace Marxist totalitarians. The Philippines and Haiti further demonstrated that American pressure on authoritarian regimes did not necessarily result in their being replaced by leftist (or rightist) totalitarians.

To apply this recent experience elsewhere will not be easy. There are other targets: Chile, South Korea, Paraguay, South Africa---and Angola, Nicaragua, Tanzania, and Yugoslavia.

American policy toward Chile is slowly following the course taken in the Philippines, but with less consistency. To elaborate that point we attach the statement this month by the Board of Trustees of Freedom House. We believe that Chile increasingly faces the choice of polarization or democratization. It is time for the United States to make unmistakably clear in Chile, as it did ultimately in the Philippines and Haiti, that this government is unequivocally on the side of the democratic forces in Chile. Our paper makes specific recommendations for U.S. actions.

BEST COPY AVAILABLE

Freedom House
REPORT
An Advisory
Board of Trustees of Freedom House

On Supporting Democracy in Chile with Consistency

Chile, mired today in a twelve-year-old authoritarian system, faces a choice of polarization or democratization. In 1980 it promised "slow and gradual" movement toward a democratic system by 1990, but the latest assessment made by the authoritative and official arm of the Organization of American States--the Inter-American Commission on Human Rights (IACHR)--finds little progress toward democratization.

Elsewhere in the hemisphere, there has recently been a dramatic development of democratic regimes: Argentina, Brazil, El Salvador, Grenada, Guatemala, Honduras, Peru and Uruguay have joined other democratic states in the region.

The United States continues to support those in Central and South America, and the Caribbean, who either lead democratic regimes or strive to create them. America provides considerable financial, diplomatic and other assistance for democratization, yet with some inconsistency.

At its 85th session in September 1985, the IACHR approved a report on the situation of human rights in Chile and submitted it to the OAS's General Assembly, which met in Cartagena, Colombia last December, where a resolution was introduced that called for the restoration of democracy in Chile.

On the initial vote, only Chile voted against it, with Ecuador abstaining. * After a weekend of lobbying and phone calls to delegations from General Pinochet, 15 (including the major democracies) voted in favor, 2 (Chile and Haiti) opposed, and 10 abstained, thereby defeating the resolution by 1 vote. The United States joined the abstainers.

Conclusions of the IACHR

In the period examined (1978-1985), the Chilean government sought to establish an authoritarian and "protected democracy" by strengthening the powers of the president and granting a protective role to the army and security forces. To achieve this end, the government acted to depoliticize the Chilean society by proscribing and dissolving political parties. These measures were to produce a great civic-military movement that would assure the strengthening of the new political system the government wishes to create.

The Commission found that no such movement has gained popular support. Instead, the Chilean people are totally excluded from political decisions that affect their lives. The government has not taken concrete steps that would lead to the restoration of political rights. The electoral rolls, which were destroyed by the government, have not been reestablished and a law that would regulate political parties has not been enacted.

*The Commission had earlier produced 7 critical reports on Cuba, the latest in 1983; 2 on the Sandinistas, 2 on Suriname, and one on Chile (previously in 1974).

BEST COPY AVAILABLE

The Commission noted the severe limitations imposed on the powers of the judiciary and the increased role played by military courts in trying cases of a political nature. The Commission concluded that the rule of law does not exist in Chile at the present time.

Human rights violations are serious and systematic. "The government has used virtually all known means to physically eliminate dissidents, including: disappearances, summary executions of individuals and groups, torture." Torture has been a continuous, deliberate and systematic practice since 1973, and has clearly been used for political purposes.

The right to personal liberty has suffered a marked deterioration over the years. Detainees may be held without charge for extensive periods and may be forcibly relocated to remote places in a form of internal exile. The number and type of security and paramilitary forces able to make arrests have vastly increased in the past several years. More recently, the government has carried out mass arrests of whole neighborhoods, resulting in thousands of detainees.

The president and the chiefs of areas can restrict and even suspend the publication of broadcasting of information when they deem it necessary and even close down the media when they consider it advisable. However, public pressure has occasionally and for short periods allowed relatively broad freedom of expression.

The rights of workers to organize and engage in collective bargaining have greatly deteriorated. Many labor leaders have disappeared while others have been arbitrarily arrested, expelled from the country, and sent into internal exile. Despite such adversity, unions have united in several agreements to advocate a return to representative democracy.

Human rights organizations, considered to be politically motivated, are perceived as obstacles to the creation of a "protected" or limited democracy. Their leaders have been harassed, and the groups ordered dissolved.

In sum, the provisions of the 1980 constitution---passed by a plebiscite held while all political activity in the country was suspended and subject to vote fraud---consecrates a personal government to which the people and the institutions of Chile are totally subordinated. Only a return to representative democracy and the rule of law can reverse the deteriorating situation.

The United States Interest in Chile

The present Chilean regime deliberately generates dissidence and polarization. As the democratic opposition is unable to press its demands, the appeal of the violent left becomes increasingly seductive. And a well-organized and significant minority of communists and radical-left are eager to engage in armed struggle. This presents a potential threat to hemispheric as well as Chilean stability.

In the U.S. national interest, and the need to end human rights violations and restore democracy, it is imperative for the U.S. to speak out clearly and consistently on Chile.

If progress is not made shortly toward restoring democracy the U.S. will be left dealing with two violent extremes as its only options---a process not unfamiliar in Central America.

The United States has not as effectively pressed for democratization in Chile as it has in other hemispheric countries---some to the right, some to the left of the political spectrum. The United States should:

BEST COPY AVAILABLE

1. Act with consistency not only throughout the hemisphere to advance democratization, but should act consistently with particular regard to Chile. The U.S. abstention on the OAS resolution urging the democratization of Chile gave a strong negative signal that was immediately misinterpreted by the Chilean regime.

2. Help Chileans restore the rule of law. The judiciary should be returned to its role as independent of military authority. The terrifying policy of forced internal exile for dissidents should be ended. The systematic and continuous practice of torture must cease.

3. Support the National Agreement on Transition to Full Democracy (August 25, 1985). All major democratic forces for the first time agreed on the method by which democracy would be restored to Chile: a return to the rule of law and the holding of free and open elections. Its signatories include the Catholic church, all trade unions, professional organizations, and church groups. U.S. aid should go to these groups in their efforts to achieve democratization.

4. Encourage lifting the ban on the activities of political parties. This is the starting point of any effort to legitimize the Chilean political system.

5. Support revision of the 1980 constitution and removal of many clauses that prohibit the development of a representative democracy. The present constitution contains provisions that preclude the transition to a democratic system.

6. Encourage lifting restrictions on the press, radio, television and the universities, and ceasing the harassment and arrest of human rights activists.

* * *

If the U.S. has made such representations in private, there have been in response only relatively minor changes. The actual leverage the U.S. has over Chile may be limited. A clear voice, in public and private, is therefore needed: America should avoid sending mixed signals, and make unmistakable this country's unwavering commitment to the restoration of a democratic society and the rule of law in Chile.

BEST COPY AVAILABLE